



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

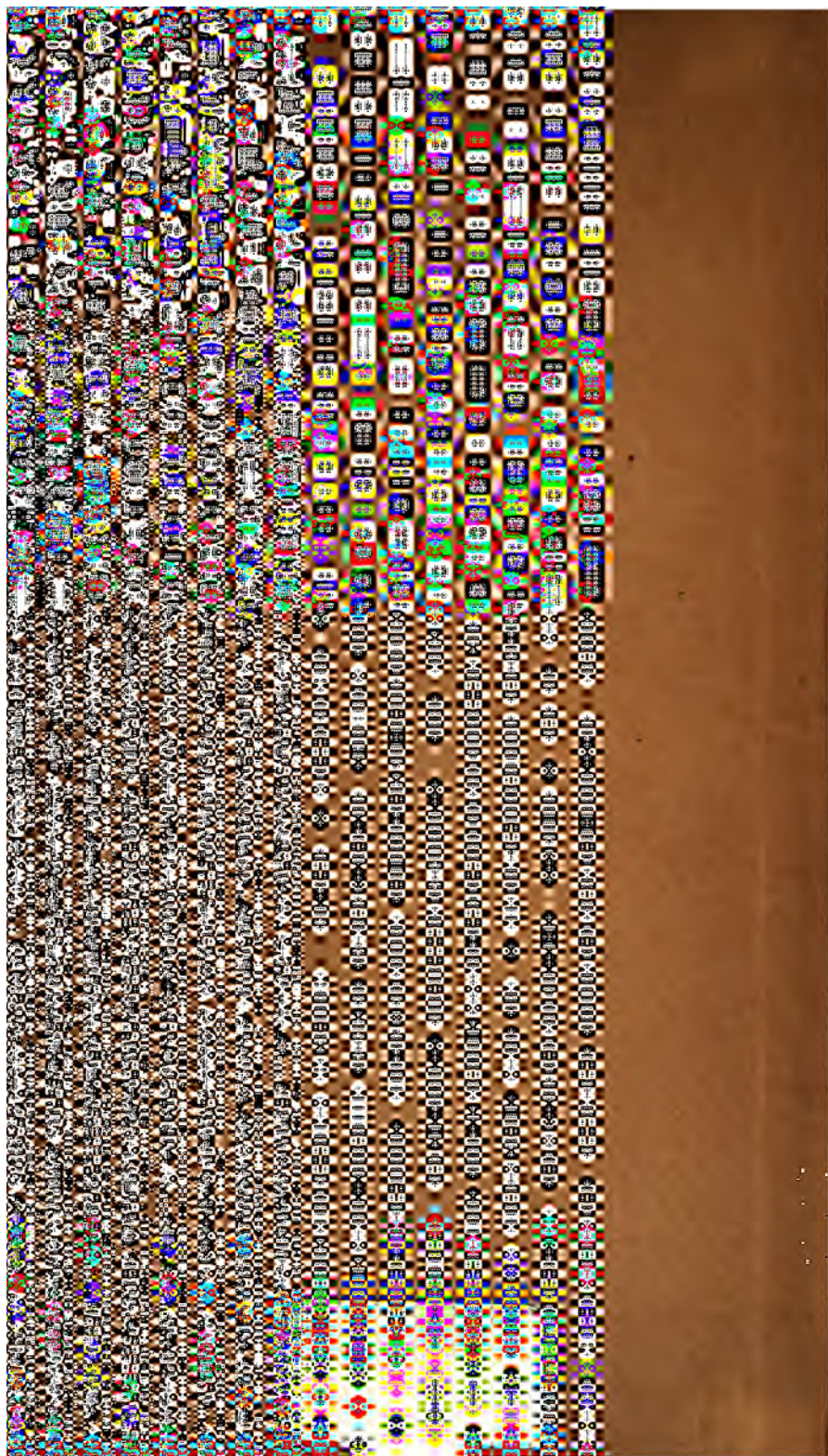
Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

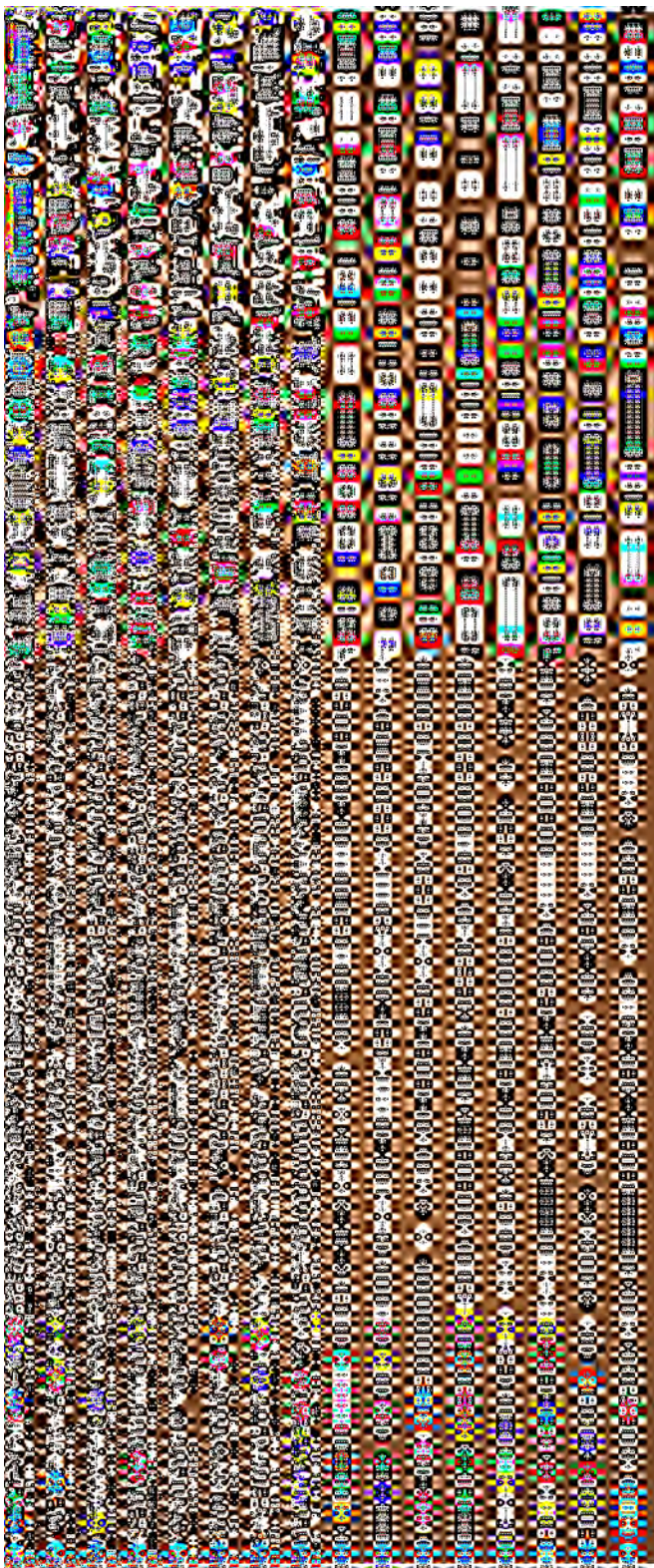
We also ask that you:

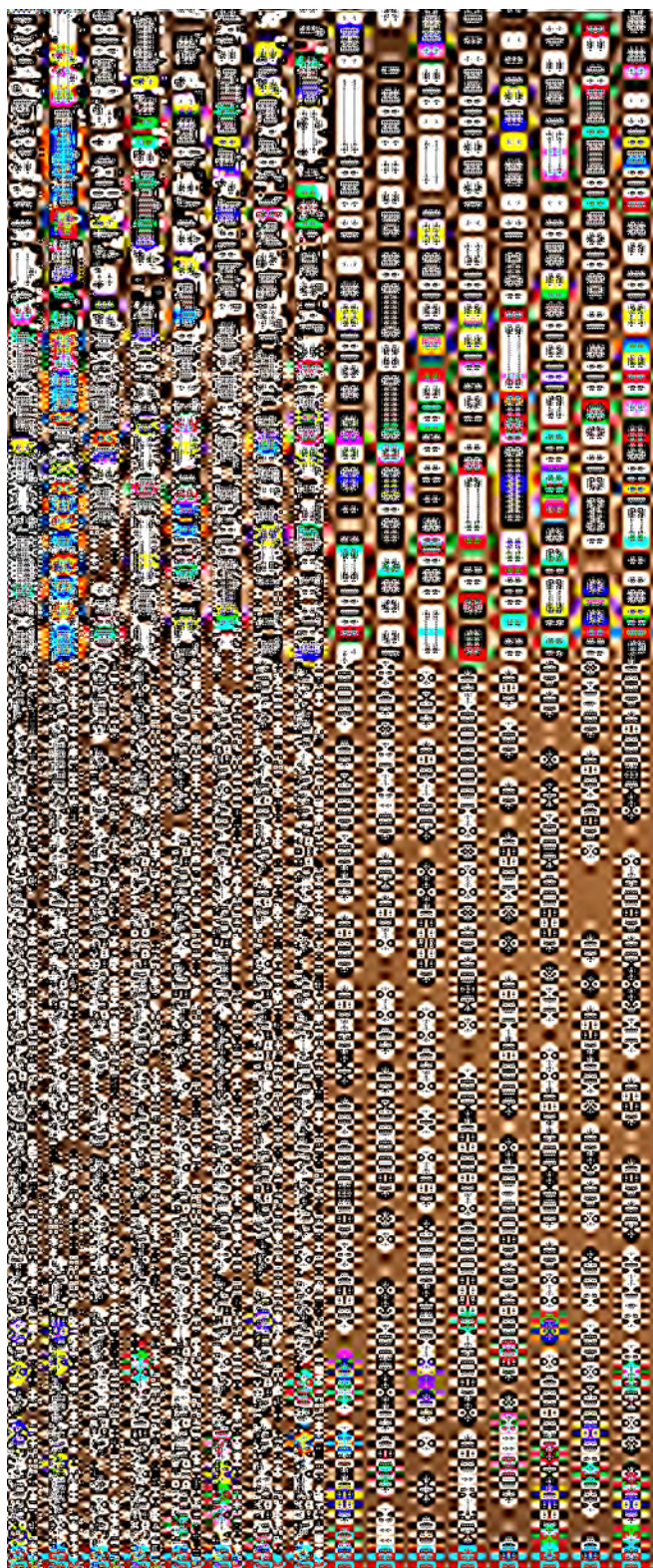
- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>







AN
I N Q U I R Y,

&c.

SECOND EDITION.

4s. 6d.

CSD 124

Dove, Printer, St. John's Square.

AN
INQUIRY
INTO THE
EFFECTS
OF THE
IRISH GRAND JURY LAWS,
AS AFFECTING
The Industry,
THE IMPROVEMENT, AND THE MORAL CHARACTER,
OF THE *Ireland*
PEOPLE OF ENGLAND.

BY THOMAS RICE, ESQ. F.A.S.

LATE OF TRINITY COLLEGE, CAMBRIDGE.

LONDON:

PRINTED FOR JOHN MURRAY, ALBEMARLE STREET.

1815.

M.S.T.

EDG. NO. 579/
100.

CSD 13

INQUIRY, &c.

Αρροῦντι οἱ οὐκ ἔχοντες ἡμῶν τὰ φραγματῆα. Μικροὶ ἡμῶν οἱ οὐκ εἰσὶν τὸ ἀναφύδω καὶ
υποσταθρῶν ἐξί καὶ διαρρεῖ τὰ σπύλλα καὶ οἱ ἱερεῖς ἐπὶ θάτερα ὀχλοῦσιν
σπερμασμένον.

Luc. dial. Char. & Mercu.

Solevano alcuni popoli esponere gl'infermi loro nella publica via, accioche dalla pietà di quelli che passavano fossero arricordate quelle medicine, et inseguati fruttuosamente quei rimedij che a risanare le loro indispositioni essero opportuni.

Davila Dedicazione.

THERE are few mental efforts more painful, than the attempt to seize any share of public attention, when combined with a feeble and almost despairing expectation of retaining it. To recal the minds of public men from the enjoyments of national triumph, and from the visions of universal peace, to a subject comparatively uninteresting, because apparently unimportant, is a species of moral bathos, which, can rarely be made, and yet more rarely be forgiven. It is a descent from the

lofty grounds of poetry and romance, to the dull realities of private life : and the individual who attempts it, is not likely to meet, from his readers, a more gracious acceptance than is bestowed, by Hogarth's Distressed Bard, upon the angry demands of his clamorous landlady.

Another disadvantage, to which writers upon local æconomics feel themselves exposed, arises from the extreme aridity of their subjects ;—the entire absence of those “ sauces piquantes,” which in our days of literary epicurism are necessary for every palate. To render such topics in any degree entertaining, would require a mental alchymy, little inferior to those powers, which have discovered—“ risus in angulo,” all the smiles and dimples of love, lurking within the rigid boundaries of a triangle, or which have united * wit and fancy, in the discussion of the Catholic Question. To these magical delusions, no claims are here preferred.

But, if it can be made to appear, that the welfare of Ireland, and the prosperity of its inhabitants, are materially connected with the subject to be considered ; if it can be made to appear, that the Irish people are injured in

* Col pennel divino di fantasia felice.—*La Fantastici.*

their moral character, in their efforts of industry, and in their pecuniary resources, by the system which it is here intended to oppose; and if the improvement of Ireland, and the prosperity of Great Britain are one, success may yet be attainable. However unequal the writer may feel himself to the cause he undertakes, and however sincerely he may wish that cause entrusted to better advocates, it would evince a species of mental cowardice, if, from a dread of failure, he shrank from an opportunity, though remote, of being useful. Nor should he have presumed to offer this mite, had others, out of the abundance of their treasures, cast a gift upon the altar. Misrepresentation is what he might most strongly dread, and most warmly deprecate; yet, even on this point, much alarm is not felt. For the chances of misrepresentation are diminished by the moderation of a writer's pretensions; * and if the arguments, now offered to the public, are convincing, misrepresentation cannot permanently impede their success.

The course to be pursued is humble. Unconnected with party,—unperverted by per-

* Siccome il fulmine non cade
In basso pian ma su le eccelse cime.

sonal animosities,—the writer proposes to lay before the public a detail of facts and arguments, which may not hitherto have been so strongly stated as their importance demands, and which, in the dearth of information upon Irish affairs, it might be difficult for a native of England to collect and to examine. The writer does not feel the presumptuous confidence of supplying all that is deficient; but, in utter darkness, the faintest glimmering relieves, though it does not dispel the obscurity. He writes amidst the scenes which he describes: he views around him, the melancholy effects of a system, but too generally productive of oppression and fraud—of misery and vice. Strongly impressed with these feelings, and sanguine in his expectations of being able to demonstrate their reasonableness, an individual connected with Ireland, by every tie of duty and of interest, may perhaps be excused for breaking through that silence and reserve towards the public, which policy and inclination would otherwise have continued.

During the last Session of Parliament, the Right Honourable William Fitzgerald announced his intention of submitting the Grand Jury Laws of Ireland to the consideration of the House of Commons. To the result of his plans, as sanctioned by the legislature, the

people of Ireland look up with extreme anxiety ; from a conviction, that it relates to a system, at present productive of incalculable injury ;—a system, strangely misrepresented on one side of the channel, and entirely unknown on the other. Yet, although the most confident reliance is placed upon the wisdom of Parliament, its deliberations are anticipated with some degree of apprehension. The representatives of Ireland are, it is true, fully competent to discuss the subject in its various bearings ; they are qualified to afford full information to both houses of Parliament, whereon to ground a wise decision. It is, therefore, a peculiar duty imposed upon them, the performance of which Ireland requires at their hands, that the utmost attention should be given to this question. They are called upon to dismiss all deep-rooted prejudice,—all ideas of private interest,—all favouritism for things as they are, in opposition to things as they ought to be:—they are called upon to decide from exalted and patriotic motives. If they step forward on the present occasion, it would be injustice to doubt, whether such will be their governing principles. For, among them, are to be found, deserving objects of the pride of their country—the admiration of the empire. Could the public confidently hope, that

the talents of these respected persons were to be employed upon this subject, any attempt, by a private individual, to afford additional information, might be justly censured as a work of supererogation. But it has unfortunately happened, that the attendance of the Irish members at Westminster has not been peculiarly constant, and that questions of vital importance to Ireland have been debated in the absence of a majority of her representatives. What took place upon the Corn Bill may *possibly* recur, and the present subject may perhaps be left to the discretion of ministers, or to the charity of English members.

Amongst these, indeed, Ireland has found many of her warmest friends—all her utmost unprejudiced advocates. It may, however, be doubted, whether many natives of England have been enabled to acquire much information upon a subject unlikely to have excited their curiosity. In hurried visits,—in desultory conversation, few rational inquiries can be prosecuted; the connexion, and, still less, the opposition between theory and practice, can seldom be distinguished. Leisure, as well as impartiality, is indispensable, in order, fairly, to appreciate a system, affecting an entire kingdom, and disposing of an enormous portion of public wealth.

The object of this essay is to pursue the presentment laws of Ireland through their practical effects—to question alike their justice and their policy—and, if it is presumptuous to entertain a hope of supplying information, it may at least be useful to seize an opportunity of exciting curiosity.

There are few points, in domestic economy, which more powerfully affect, and more exactly measure the improvement of a nation, than the state of the roads and highways. By them the extent of inland trade, and the augmentation of public wealth, may be computed. All the first produce of the soil is by such means brought into the general stock; and the price of every article to the consumer is affected by the ease or difficulty of the internal communications. “Let us travel over all the countries of the earth, wherever we find no facilities of passing from a city to a town, and from a village to a hamlet, we may pronounce the people to be barbarians, and we shall be deceived only in the degree of barbarism.” Such is the observation of Raynal, which is fully confirmed by the testimony of other historians. The roads which traversed* the Roman Empire for upwards of four thousand miles, from Belgium

* Gibbon's *Decline and Fall*, chap. x.

to the frontiers of Parthia—monuments of equal utility and magnificence—were objects of national concern. “The ancient patrician contended for the office of *curator viæ*, and for the honour of inscribing their names over works and repairs, which exhausted their fortunes.”* Even beyond the Atlantic, amongst men less civilized, the causeways of Mexico offered models of successful industry to the invaders: “*Diques ò calzadas principales*,” observes De Solís, “*fabrica sumptuosa que servia tanto al ornamento como á la necesidad*.”† The *corvées* of old France, though iniquitous in their operation, were useful in their result; and the *exposés* of Napoleon dwelt, perhaps, with greater triumph than veracity, upon the magnificent avenues, which his engineers had opened over the natural barriers of Italy and Switzerland.

Nor is it merely in the abstract, that the management of public works is entitled to our attention. Practically considered, and applied to the present times, and to the British empire, it becomes more interesting and more important. It is asserted, that two millions‡

* Forsyth's *Antiquities of Italy*.

† *Historia de la Conquista de Mexico*, fol. Barcelona.

‡ Ward's Letter to Sir J. Sinclair. Second Report of the Committee for Highways. Appendix, p. 16.

yearly are expended upon the roads of England; one half of which a competent judge* calculates as being fully sufficient for the end proposed. Vast sums, annually augmenting, independent of parliamentary controul, and unrestrained by effectual responsibility, are levied and appropriated in Ireland. What in 1778 only amounted to £140,000,† in 1807 exceeded £680,000;‡ and, in 1814, may probably approach £1,000,000. The taxation of a single county rated, in 1790, at about £7000, in 1813, was augmented to £39,000; having paid, during this interval, above £450,000.¶ In the county of Cork, within the short space of eight years, the impositions have advanced from £38,000 to £77,000. Never was the observation of the historian of Italy more exactly realized, "*le cose sequenti tirano a se le precedenti, et l'aumento cuopre la parte aumentata.*"§ It behoves parliament most seriously to inquire, how far such enormous levies are necessary—how they are raised,—and with what benefit expended. In pro-

* Edgeworth's Essay on Roads and Wheel Carriages, p. 49.

† Arthur Young's Tour in Ireland, Appendix, p. 58.

‡ House of Common's papers, March 1807.

¶ Appendix Table.

§ Guicciardini Istoria d'Italia.

portion as they are misapplied by fraud, or wasted by profusion, the country becomes a direct loser.

Previous to entering upon the more immediate object of inquiry, and in order to comprehend the history of the Irish Grand Jury Laws, it will not be amiss to cast a rapid glance over the principal statutes, which have, in their turn, been enacted, condemned, and repealed. This phantasmagoria of acts of parliament, will appear, it is apprehended, exceedingly dull: but the stupid exhibition is rendered necessary by the arguments which it may suggest. We may wander amidst these catacombs of departed statutes, without any reverence towards the mighty dead. No sybil leads the way through Elysian fields, but all within view is barrenness and desolation;

“A mighty maze, and all without a plan.”

The rapid succession of these abortive and short-lived statutes, resembles the passing figures in Holbein's Triumphs of Death; and the first couple in the ghostly train, might be allowed to address their followers in the spectral chorus of Luigi Alamanni,

“Morti siam come vedete,
Così morti vedrem voi;

Fummo già come voi sete,
Voi sarete come noi."*

By the 11 Jac. I. cap. 7, the English system of statute labour was introduced into Ireland. This seems the earliest legislative interference with the roads, and it provides that each ploughland should furnish six days' labour. The 10 Car. I. cap. 26, gives to Justices of Assize, and of the Peace, with the consent of the general juries, a power to levy certain sums upon counties for the execution of the public works. Surveyors are, by this act, bound to account at sessions. Before many years had elapsed, in 1706, such abuses had already occurred, as to call for the interference of parliament; and by 4 Anne, cap. 6, the powers of taxation rested in general juries were expressly limited to £20 for the heterogeneous purposes of building bridges, and apprehending Tories. The 9 Anne, cap. 9, explains the word ploughland, and regulates the employment of statute labour. These attempts at reform proving ineffectual, by 6 Geo. I. cap. 10, § 7, a grounding affidavit is made necessary; such affidavit stating the road in question to be actually out of repair.

Statute 11

ground

jury

general

jurors

* Chorus in the celebrated Mascherata Il canto della morte.

The overseers are also bound to account upon oath at a subsequent assize. By the 1 Geo. II. cap. 3, a provisional power, to the extent of £5. is granted to magistrates, for the repairs of bridges suddenly damaged. During the same session, abuses still continuing to increase, further emendations were proposed, and by the 1 Geo. II. cap. 13, competent overseers became entitled to an increased rate of payment; the means of redress by traverse are also pointed out. Further remedies, for further grievances, are devised by the 13 Geo. II. cap. 13; but a radical alteration, and most material improvement, was enacted by the 33 Geo. II. cap. 8, which forms an epoch in the Grand Jury Laws. The statute labour is here admitted to be burthensome to the subject; and it is here provided that no day-labourer shall be compellable to work without payment on the public roads. The breadth of carriage wheels is also regulated, which bespeaks the increased importance of the subject, and the progressive improvement of the country. In the 3 Geo. III. cap. —, seven days' notice is required previous to all presentments, in order to protect the public from frauds which still continued prevalent. In the same year 1763, the present Grand Jury System was devised, and all preceding acts repealed.

Upon this statute, 3 Geo. III. cap. 14, is founded the road act of Ireland, now in force, which contains, in many particulars a re-enactment of its provisions. A regular and unvarying formula is struck out; collectors are allowed fees, upon their levies, and statute labour is wholly abolished. It is worthy observation, that in England, a country rich in capital, and proud of the independence of its inhabitants, this early invention of poverty—this remnant of personal service—should still continue, whilst in Ireland, where such a practice might perhaps be defended, it no longer exists.† The life of the last-mentioned statute was of no very long duration, with the 13, 14 Geo. III. cap. 32, it terminated. A variety of additional powers are entrusted to the grand juries, which are explained and amended by the 17, 18 Geo. III. cap. 22. The contract management of roads is introduced in this act, and regulated by the 19, 20 Geo. III. cap. 18, three pence by the pole being allowed as a maximum. The 23, 24 Geo. III. cap. 42.

† “ It may be considered whether the taxing of these cabins be proper; but rather with days’ labour; inasmuch as it is easier for them to give 49 days at reasonable times, than to pay two shillings in silver at a pinch just when the collectors call for it.” Petty’s Pol. Anatomy, p. 355.

amends two of the former acts, and adopts additional precautions against fraud. A power of presenting certain fixed sums for maps and surveys is granted, and broad wheels to carriages are again encouraged. The 32 Geo. III. cap. 30, augments the duties of grand juries; filling drains, and cutting hills, are provided for, and the breadth of *post* roads is fixed at forty-two or fifty-two feet. All the acts hitherto recapitulated are repealed by the 36 Geo. III. cap. 55, by which grand jury proceedings are at present governed.

It appears, by the review just taken, that from the year 1616, continual efforts have been made by Parliament to reform the evils derived from the presentment code. It has also been shewn, that all such efforts were ineffectual. "Every repentance has stood in need of repenting." What an objectionable system must that be which requires the reforms of two centuries, and how indefensible must it appear when the labours of two centuries have been unable to correct its abuses.

It is now time to quit these troubled spirits;—these spectral Acts of Parliament;—"superasque evadere ad auras,"—and to consider the forms and features of their living descendants. It will be found, that the latter bear a most formidable resemblance to their proge-

nitors, and that the fatuity and weakness of their physiognomies is proportionate to this likeness. Lest any unfairness or misrepresentation should here be apprehended, the operation of the present Grand Jury Laws shall be described in the language of two of their strongest advocates, Mr. Edgeworth and Mr. Arthur Young.

“ In Ireland, by the 36 Geo. III. in which former statutes have emerged, the roads are repaired by presentments of grand juries.* Any person wishing to make or mend a road, has it measured by two persons, who swear to the measurement before a magistrate. It is described as leading from one market town to another, it matters not in what direction; that it will require such a sum per perch, or pole of twenty-one feet, to make or repair the same.† The grand jury presents to the court what they approve. The judge, if the forms are properly attended to, fiats the presentment.‡ This proceeding enables the person who applies for the presentment, to repair or construct the road in question, which he must

* Edgeworth on Roads and Wheel Carriages, p. 46.

† A. Young's Irish Tour, vol. ii. Appendix, p. 56.

‡ Edgeworth, p. 47.

do at his own expense.* When the work is finished, the overseer swears an accounting affidavit, that the work is done according to the forms of the presentment. The succeeding grand jury present the affidavit to the judge. A book, in which the original presentment was entered, is produced by the clerk of the crown. The money which was granted is entered as accounted for, and, in pursuance to this entry, the treasurer of the county is obliged to pay the overseers. The money has been previously collected, by the high constable, from the different baronies, or districts, into which the county is divided."†

At the first view, no system can appear more rational, or founded upon principles more philosophic and just. The great landed proprietors of a county, assembled together with all the solemnities of judicial proceedings—acting under the sanction of an oath—combining, as might be presumed, both local and general information;—with minds unprejudiced—with fortunes independent;—subject to no check, but of discretion—no controul, but of conscience; such a body must be presumed to possess the ability and the inclination to act

* Young—Appendix, p. 56.

† Edgeworth, p. 47.

wisely. Their duties, would, at first, appear easy of comprehension and of performance. Every man, it might be imagined, must perceive the deficiencies of the public works in his immediate neighbourhood, and it is his direct interest to have them remedied, with economy and with effect. With effect, as he becomes an instant gainer by the improvement;—with economy, as he is himself one of the individuals taxed to supply the expenditure. Even if the peasant should feel any difficulty in discharging his share of the levies, it returns to him again as wages for his labour. Industry is encouraged, and the prosperity of every class must flow from so happy a system.

Such is the conclusion, reasoning *a priori*; and in such a light did the Grand Jury Laws appear to the committee,* which recommended their modification and adoption:—a committee composed of individuals, many of whom still live in the memory of their friends;—whose private worth, and public integrity, will ever claim a grateful tribute of affection and of esteem.

* Among the individuals who composed this Committee were, The Viscount Pery, Robert Fitzgerald, Esq. Knight of Kerry, Mr. Fortescue, Mr. French, &c.

Practically considered, the case assumes a very different aspect: the patriotic views of the committee alluded to seem to have been disappointed, and the result appears very opposite to their benevolent expectations. It may, perhaps, be censured as presumptuous to attack a system sanctioned by the view of its framers; but what talents, however admirable, or public spirit, however exalted, can cast the mind forward into futurity—can anticipate the results of experiments yet untried? The spirit of patriotism is distinct from the spirit of prophecy; and how many are the measures “*che per saper all'ora di buono, non manifestano il veleno che v'è sotto.*”*

At an early period, in the history of the Grand Jury Laws, the grievances found to result from their abuse, produced very dangerous disturbances in the northern province of Ireland. One of the first exertions of the late Lord Charlemont's public spirit, was the wise and bloodless suppression of these commotions. The opinions of this enlightened nobleman, on this subject, are fortunately recorded by his biographer. “Nothing is more certain, than that it is highly advantageous to every country, and particularly to one emerging out

* Macchiavelli.

of an uncultivated state, that good roads should be made through it. But in laying out such roads, the public advantage should be invariably and exclusively pursued, so that it should be obvious to the people, that the taxes levied upon them were expended really and intrinsically to their advantage. In this case, however, the gentlemen were, in many instances, undoubtedly partial and oppressive; as by their influence in the grand juries, presentments were too frequently procured, merely for the emolument and convenience of particular persons; and, by no means, with any view to the advantage of the community.”*

Such was the state of things in 1763; and no great improvement has taken place since that time. On the contrary, a lapse of fifty years, has incalculably multiplied the evils complained of. Statute has been added to statute—judges have charged, and public opinion has condemned; the satirist has pointed out the absurdity; the declaimer has magnified the grievance; but juries have adopted no reform—the legislature has afforded no remedy. The public burthens have augmented in a most formidable progression; the public works have become deteriorated in a similar

* Hardy's Life of Lord Charlemont, vol. i. p. 183.

ratio. The landlord is lowered in general estimation, by his acquiescence in a corrupt system; the peasant is impoverished, and the community is plundered.

It is now to be enquired, how far these assertions are borne out by the facts; and how much the practice of the Grand Jury Laws varies from their plausible theory. These laws may be considered—1, as they affect the grand jury itself; 2, as they influence the execution of the public works; and 3, as they operate upon the general interests of the people of Ireland.

In prosecuting these enquiries, the arguments relied on will be chiefly supported by an acquaintance with particular counties and districts. A better chance will thus be afforded of bringing forward intelligible facts, in the room of being led astray by vague generalities. It may, indeed, be asserted that general conclusions are thus drawn from particular facts; but, were this accusation just, no system could be defensible which produces the evils complained of. The objection, however, can by no means be admitted. Where are grievances confined by mountains, or hemmed in by rivers—beginning or ending with certain parallels and meridians—or varying with the angles of the compass?—One common system,

acting upon individuals similar in habits and education, must, it is conceived, universally be attended with the same consequences.

SECTION I.

THE Grand Juries of Ireland, summoned by the high sheriffs, who, in their turn, are nominated by the prevailing ministerial interests within their several districts, become, in many instances, questionable in point of impartiality. It is true, that no very flagrant violations of decorum are likely to occur; and that, an independent candidate would not be omitted, even upon the jury influenced by his rival. Certain persons, from fortune, or consideration, can scarcely be passed over, but their weight becomes of less importance, if a majority of their fellow-jurors are selected from direct party motives. Such may not always be the case; the leading character of a county *may* possess the nomination of the sheriff—*may* feel convinced that such nomination might be employed advantageously for himself, and yet *may* forego all private views in his recommendation. Sheriffs *may* act with independence, regardless of the interests through which they have derived their appointments. Grand jurors, also, though connected with the officer

by whom they have been summoned, *may* proceed to the consideration of party questions with impartiality. All this *may* occur, and passion and prejudice—self-interest and obstinacy—hope for the future, and gratitude for the past, *may* be forgotten in one common feeling of public duty. But if, on the contrary, grand juries should ever be wrested to party purposes, an annual income of a million of money, may, in Ireland, be perverted from its fair distribution, and kept within a limited sphere of circulation, for selfish motives of personal aggrandizement.

If also, by possibility, it happens that men of distressed circumstances and relaxed † principles are placed upon the grand jury (and in what county do not some such individuals exist?) the result becomes yet more unfortunate. Presentments are obtained for servants and dependants—a presentment becomes the relief bestowed upon a distressed tenant; the farewell gift to a forsaken mistress. A clause covenanting to obtain presentments has been inserted in leases, and presentments have been

† D'autant que ce sont les dames qui ont fait la fondation du Cocuage, et que ce sont elles qui font les maris cocus, j'ay voulu mettre ce discours parmy ce livre.

made the subjects of family settlements. These public securities are sold and re-sold : each seller reserving a *net profit* to himself. £80 to be *accounted for an oath*, may possibly bring in the first bargain, a profit of £20 ; in the second of £10, or £15, and it is extreme liberality to allow £15 for the sum expended on the work.

The writer protests against any perversion of the statement he has felt himself bound to make ; he protests against any attempt to interpret as a general calumny, what is only intended as a censure, limited in its application. An exaggeration of these facts would be falsehood—a denial of them cowardice. He fully appreciates the elevated duties of the Irish country gentleman ; and highly as he rates these duties, numberless individuals may be pointed out, who fulfil them with the most scrupulous fidelity. Such individuals are entitled to the respect of their country, as well as to the gratitude of their dependants. For the situation of a resident landed proprietor in Ireland is, by no means, a *sinecure*. It does not afford the literary leisure, the happy retirement, which his brother squires in England may enjoy. It is a sphere of personal privation, and of personal exertion. But, when a mind is awake to that first of all delights, the power of becoming extensively and permanent-

ly useful, all privations are forgotten, all labour is well repaid. A peasantry capable of improvement, and grateful for every benevolent assistance, look up to the landlord as to a protector and a friend. He may not only assist their distresses, but may enable them to assist themselves.† He may place the means of success within their reach, and may remove the obstacles which impede their progressive amelioration. And, if at the close of a long life, an individual is able to view around him, order, industry, and morals; the young instructed—the old protected—improved habits—an obedience to the laws—an independent spirit, fully compatible with the most affectionate gratitude—if he can view around him the happiness above described—if he can humbly hope that he has been made instrumental in its diffusion, how full of enjoyment will be his moments of reflection! The pursuits of the contemplative philosopher may be more scientific—the career of the successful patriot more brilliant—but what course can be run with greater utility, or terminated in more dignified repose!

† The maxim of Cervantes should never be forgotten:

Se yo non me guardo
Mal me guardoreis.

To return from this digression—Let it be supposed (a supposition, perhaps, most frequently warranted by the fact) that the grand jurors approach their table with the most upright intentions; it must still be doubted, whether they can command the means of reducing such intentions into practice. Fraud without doors may defeat the purest integrity within. All presentments are founded upon a primary affidavit; in many cases, from the loose construction of the act, the formula may be complied with, and yet the public defrauded; in many cases the most extravagant perjuries are committed; in many, an evil yet more crying exists; and the magistrates, who sign the affidavit, become sharers in the guilt. This is an accusation of so very grave a nature, that it would not have been advanced, were it not supported by the charge of a most upright and honourable judge, one of the senior officers upon the judicial bench of Ireland. “I understand,” observed Baron George,† “that it has been too frequently the practice with magistrates to sign their names to fictitious affidavits, which have never been, in point of fact, sworn to by the pretended deponents.

† Charge to the grand jury of the county of Limerick—
Summer Assize, 1814.

Let such magistrates beware. They may be proceeded against as accessaries in obtaining money under false pretences, and may be condemned to stand in the pillory, beside the inferior participator in the crime." Upon such a subject no comment is necessary. Had it proceeded from authority less unquestionable, or had any refutation to the charge appeared, some doubt of its truth might have been entertained; but, from authority so respectable, supported by every-day occurrences, which cannot otherwise* be accounted for, a belief in this fact must, with regret and mortification, be acknowledged. A fact, which calls loudly for inquiry, and for punishment.

It must here be observed, that all the presentment system being founded upon affidavit, both in granting money and in accounting for its expenditure, if once fraud is introduced into these affidavits, the whole becomes disorganized. And can it be imagined, if a judge of assize esteems it an imperative duty to bring

* Unless indeed with Mr. William Perkins, in his learned discourse upon Witchcraft, it is believed, "that the Devil may appear to the grand jury in the *likeness of some known man*, and offer to take his oath, whereby the inquest is deceived."—*Sir R. Filmer's Difference between a Hebrew and an English Witch*, p. 327.

forward a charge so heinous against individuals in the higher walks of society, that the offences complained of should *terminate with* them? If education, independence, a dread of public reprobation, and religious principle, do not controul the magistrate, how is the peasant, ignorant and impoverished, to be restrained? The result is what might be apprehended: the affidavits are seldom borne out by the facts, and are calculated rather to mislead, than to direct, the judgments of the grand jury.

A fraud, in any one stage of the proceedings, will deceive the grand jury, and defeat all the precautions of the statute book. This consideration is most weighty; for who is sufficiently bold to trust himself to the protection of a single affidavit, or who would be satisfied to sleep in peace with but one plank between him and eternity?

Digitis a morte remotis
Quatuor, aut septem.

And if, according to the theory of Cuvier, the characteristics of an entire species could be investigated from the inspection of one single bone, the presentment code might be condemned upon this count of the indictment.

Should every affidavit be fairly sworn, it by no means follows that they should, therefore,

be plain and intelligible. The words of the act may be most accurately attended to, and yet a road applied for in so vague a manner as to be unrecognizable, even by the grand juror, whose door it passes. Each road, according to the act, must be described as lying between two market towns; but this provision is interpreted with the most loose construction. The road from Highgate to Islington may be defined a road between Edinburgh and London—between York and Dover—Lincoln and Canterbury—Cambridge and Portsmouth, running through all imaginable extent of permutations and combinations. It may be applied for under these various names. Different presentments may be granted—affected to be executed and accounted for; all referring to the same identical spot. Thus the public becomes subject to an expense infinitely multiplied, and pays several prices, in succession, for the same commodity. In order to explain this fact more clearly, the following extracts are made from a publication, which reflects much credit upon the respectable gentleman whose name it bears.

“ It has appeared that one third of the money granted for the repairs of the roads, has been paid doubly and trebly for the same presentments, and sometimes more, which has

occurred for want of known or fixed landmarks as boundaries. The following examples will shew the errors to which the public have been heretofore subject; of the extent of which, no one who has not taken the trouble of investigating them can form an idea.—Suppose a part of a road, lying between Ardagh and Shanagolden, on the line from Newcastle to Glin, where three intermediate towns occur. This part may be described in twelve different ways, all strictly true, yet from their dissimilarity in reading, all tending to mislead the grand jury in granting the presentment.

Newcastle—Cordagh $\frac{\text{Presentment}}{\text{here.}}$ Shanagolden—
Loghill—Glin.

The presentment may be thus described :

- | | |
|------------------------------|----------------------------|
| 1. Newcastle to Shanagolden. | 7. Shanagolden to Ardagh. |
| 2. Ardagh to Loghill. | 8. Loghill to Newcastle. |
| 3. Glin to Ardagh. | 9. Ardagh to Glin. |
| 4. Newcastle to Loghill. | 10. Loghill to Ardagh. |
| 5. Shanagolden to Newcastle. | 11. Newcastle to Glin. |
| 6. Glin to Newcastle. | 12. Ardagh to Shanagolden. |

“The above is a direct line; but if the towns on the cross lines connected with that line were introduced, the variation may be increased almost without limit. Houses are generally taken as landmarks; yet as there is not any restriction on those applying for pre-

sentments, a large stone, a bush, a gap, or any other object, which presents itself, is frequently used. Even houses are liable, their tenants and description. Suppose six houses upon a line of road to be repaired, and for which there are four applications.

	A	B	C	D	E	F					
1st Presentment	0	10	20	30	40	50	60	70	80	90	100 Perches.
2d ditto											
3d ditto											
4th ditto											

“ Let A, B, C, D, E, F, represent the six houses or landmarks, assuming that four presentments are applied for within these limits, and granted by the grand jury, the account will stand as follows :

No. 1.	From A to E	80
No. 2.	C to F	50
No. 3.	B to D	40
No. 4.	B to F	80
Total		250

“ Thus there would be 250 perches granted and paid for, where only 100 actually existed.”*

* Survey of the Roads of Upper Connelloe, by Edward Carte, Esq. 4to. 1814.

Yet it may be imagined impossible, that gentlemen should not become so well acquainted with the roads in their immediate vicinity, as to preclude the existence of such abuses. Each juror, as the representative of a certain district, may be presumed well informed respecting the roads surveyed within it; and may carry to the assizes the result of his well-digested inquiries. Such might be the case, did any system of representation, direct or virtual, exist within the grand jury. The practice is otherwise, and the members are called together, as friendship, interest, or political connexions may command. If a vagrant absentee can be intercepted in his Killarney tour, or a professional agent smuggled into the grand jury box, no local information is to be derived through their means. *The stranger in Ireland* can know nothing, and the agent who quits his profession in the capital to distrain cottagers, register freeholders, and pass receipts, is seldom qualified to discover the true interest of the public. It is surely not erroneous to consider a system of taxing unconnected with representation, uncontroled by public opinion, and unrestrained by any species of responsibility, as a grievous anomaly, in a free country. Were it even possible, that such unlimited powers should remain without abuse, they are in themselves so objection-

able, as to demand immediate reform, if not entire abolition.

"To tax me without my consent," observes one of Ireland's earliest advocates, "is little better, *if at all*, than downright robbing me. I am sure the great patriots of liberty and property, the free people of England, cannot think of such thing, but with abhorrence."*

Even were a representative system more strictly adhered to, another difficulty would still subsist. The general juries, who are so liberal of the public money, do not in point of fact tax themselves. They do not fear their proportion of the county levies. The funds, which their votes raise and appropriate, are collected, not from the inheritors, but the occupiers of land. Still, say the theorists, the tax falls upon the landlord, as his rent is always calculated, minus the local taxation. This position may be contested, unless, indeed, expressly modified and restricted in its application. The county levies have been too variable to be taken effectually into account. A farm let in the year 1790, paying but sixpence by the acre, county levies would, in the year 1814, have been charged at the rate of four or five shil-

* Molyneux's Case of Ireland, p. 115.

lings. Of this sum, it must be perceived, that the landlord would have borne but one eighth, or one tenth.

If these levies really fell, as is stated, upon the landlord, and that, *protanto*, they were a deduction from the rent, still the vexations and uncertainty of their collection must be borne exclusively by the tenant.*

Let it, however, be granted, that no one of the evils hitherto described does occur, but that all without doors is fair dealing, and within them ability and virtue. Strange as it may appear, even such an Utopian hypothesis does not afford any approximation to the duties of the grand jury. It is wholly impossible that these important duties would be adequately performed, within a few days of an hurried assize, unless grand jurors were most particularly favoured, and that, like the Emperor Julius, they could "*employ* their hands to write,

* The following observations apply as fully to the county charges of Ireland, as to the momentous subject which they are intended to explain. "Even admitting that in case of an abolition of tythes, rents should rise in a similar proportion, the alteration would still be a material improvement; the tax would then be stable and certain, and no longer variable."

CRUMPE, *on the Employment of the Irish Poor*, p. 277.

their ears to listen, and their voice to dictate at one moment, pursuing three distinct trains of ideas without hesitation, and without error.”*

No very authentic account of the performance of this intellectual miracle has appeared; and, with the exception of some votaries of perfectibility, few persons entertain sanguine expectations of its frequent occurrence.

From the inspection of the subjoined tables, it may be perceived how rapid has been the augmentation of grand jury business. In 1790, the sum raised on the county of Limerick did not exceed £6220 0s. 3d.; in 1813, it amounted to £39,495 2s. 5d. The same interval of time is allowed for the discharge of duties: thus, increased sixfold. But it is not from the sums granted that the truest estimate may be formed of the increased pressure of grand jury proceedings. The amount of presentments applied for, the number of affidavits lodged, furnish a standard more accurate and more decisive. In 1813, the grounding affidavits, prepared for one single assize, were 1408; the sum required from the taxation of six months was £73,687 17s. 5d.

In order, fairly, to consider the branch of the

* Gibbon's *Decline and Fall*, chap. xxii.

subject, it must be remembered, how numerous and important are the duties of the grand jury, independent of their management of public roads. The examination of evidence, in criminal cases; the inspection of jails; the appointment of police officers; the payment of salaries; some attention to the public charities—all these are subjects which ought not to be neglected in careless impatience, or passed over *sub silentio*, as matters of course. They, on the contrary, require the fullest discussion—the closest investigation. Yet, if, from the five days, which may be taken as the average duration of the county of Limerick assizes, is subtracted the time necessary for performing the duties above alluded to, how much will remain for the consideration of 1400 presentments?—Scarcely so many minutes.

Nor is it merely to this number of presentments, however great, that attention is to be confined. An additional batch of one thousand accounting affidavits must be gone through, and the whole is to be audited, passed, or rejected, during an interval scarcely sufficient for reading over the titles. This renders discussion a farce, and fair inquiry impossible;—the duties of the grand jury are neglected, to attend to its more captivating privileges. The

accounting affidavit is passed as a matter of form—the only inquiry is, whether the sum and dates are transcribed in letters or in figures.

Such is the state of the case, even upon the supposition that no contrariety of opinions—no clash of interests should arise. This supposition is, however, improbable. By three-and-twenty grand jurors, different views of the same object must necessarily be taken; and these different views lead to the recommendation of opposite measures. To weigh the merits of the several propositions, deliberation is indispensable. But deliberation is incompatible with the scene of hurry and confusion which a grand jury room presents.—“To the poll!” becomes the general cry, and all questions of doubt—ever the most important to the community—are decided, not by right reason, or by fair evidence, but by clamour and an inconsiderate division.

One great source of evil may be found in the secrecy of grand jury proceedings. When the duties of that body were wholly of a criminal nature, the oath was framed, under the sanction of which they were impanelled. They are, by this engagement, bound not to reveal “the counsels of themselves or their fellow-”

jurors."† The intention of this oath it is very easy to perceive. The duty of the grand jury being to examine evidence on behalf of the crown, were such evidence to be made public, criminals might be afforded opportunities of preparing a corrupt defence. Thus far the principle is rational and intelligible; but upon what grounds it could have been applied to the disposal of public money, it is difficult to conceive. Why should gravel or pavement become subjects of mystery, and cutting hills, and building bridges esoteric doctrines? Whatever the initiated may profess, the faith of the multitude cannot believe that these hidden conclaves are exclusively for the spiritual worship of the Egyptian idol;‡ more particularly, as they find themselves the victims to be sacrificed, and the rewards of their industry, the offerings on the unhallowed altar. Many evils of the present system might have been avoided, had all grand jury impositions been made in open court—investigated in barony meetings,

† Grand Juror's oath.

‡ There has been many analogies struck out between the worship of the Egyptians, and the proceedings of grand juries :

—— nefas illic factum jugulare capellæ

Carnibus humanis vesci licet,

JUV. SAT. xv.

and consequently controuled by public opinion. The darkness has been loved better than the light, and the motives for such preference may too easily be understood. Jobbers never blush in the dark, and into the grand jury room scarcely a ray of light is allowed to enter. .

Nor is it alone the secrecy of the grand jury oath which appears objectionable; a liberal inquirer might, with justice, protest against the oath altogether. Strange as it may appear, there is reason to think, that the disposal of public money would be directed with greater wisdom and purity, were grand juries freed from the shackles of this engagement. An oath might, indeed, be serviceable in matters of fact, but seems inapplicable to cases varying with the numberless shades of opinion. And, let it be remembered, that the majority of the grand jurors have strong personal interests in every decision to be made. To secure certain advantages, for an individual himself, or, for his friends; to obtain the direction of the county funds, and of the public roads, may, without any sinister views, become objects of ambition. Yet, it is upon oath, that all such decisions are to be made—it is upon oath, that a juror is bound to decide “without favour or affection,” whilst he sees his friends arrayed at one side of the table, and his antagonists at the other. In

ordinary cases, the law of the land would reject the service of a juror, if it were known that he had a personal interest in the issue to be tried. Here, on the contrary, are three-and-twenty men, identified with the questions to come under their examination; and yet, it is to them, without controul or responsibility, that this great public trust is to be committed. The result of this impolitic oath is a melancholy one. Many individuals, *from the utter impossibility of performing the obligations of this engagement*, are induced to shrink from the contest altogether. A man of strong feelings and conscientiousness, fears to hazard himself in a situation, where he cannot to the utmost fulfil his ideas of rectitude: he, therefore, retires from the service of the public, and his place is supplied by the jobber and the partizan. The retreat of individuals thus timidly virtuous, may be condemned; but the system, which produces it, is still more worthy of condemnation. “*Boni, nescio quomodo, tardiores sunt, et principiis rerum neglectis ad extremum ipsa denique necessitate excitantur; ita ut nonnunquam cunctatione ac tarditate dum otium volunt etiam sine dignitate retinere, ipsi utrumque amittant.*”* It requires a com-

* Cic. Orat. pro Sext.

bination of high spirit, and of unbending resolution, to enter the torrent, and to struggle against its waves. Those characters are invaluable,

Who, placed in scenes, where strong temptations try,
Although 'tis hard to conquer, scorn to fly.

The Barony of Lower Connelloe,* in itself contains one hundred and eighty miles of road; for the repairs of which, £ was demanded in spring 1813. Of this sum, £ was actually granted. It is difficult to imagine, that, within the limited period allowed for inquiry, the presentments either granted or rejected could have been duly weighed. If the business of the grand jury were limited to this single department, or about one of their labours, it would be nearly impossible, under the present system, for that body to administer its duties with effect. A knight errant, mounted upon the winged steed of Romance, could not fly over

“ Our ragged hills, our rough and selvaige ways.”

In the time when a few country gentlemen—as unchivalrous beings as can well be imagined—

* This district is selected as being that of which the writer has the most immediate knowledge.

are required to read, mark, learn, and inwardly digest the wants of the public, and the best methods of redressing them: 180 miles of roads, contain 57,000 perches, to be brought under discussion. The number may, in point of fact, be doubled; for the presentments of former years are produced in the shape of accounting affidavits, which give 114,000 perches to be inquired into; all comprehended within a single barony. Add to these, building bridges, clearing drains, and cutting hills; and can it be believed, that the attention of a few mornings could be sufficient to direct such multifarious efforts? But the barony of Lower Connelloe contains but a sixth* part of the entire county of Limerick; these duties, *already excessive*, may, in argument, be augmented six fold; and, in addition, the ordinary class of grand jury duties is to be performed, or rather, is to be neglected. If there were not said to exist, certain vases of Hibernian manufacture, calculated to remain "*fuller than they can hold*," an engineer might be at a loss to comprehend, by what analogy the framers of the Grand Jury Laws could defend the wonderful works of their hands.

* An extreme case has by no means been taken. The barony of Upper Connelloe contains 240 miles of road, which would have furnished a still stronger illustration.

Some Atlas of the highways, some Colossus of roads, may perhaps step forward, willing to employ his "hairy strength" upon the Herculean task, of propping up an edifice already "nodding to its fall." Such a person, in the true spirit of valour, which underrates all opposing difficulties, may perhaps assert, that the time and opportunities now afforded to the grand juries, are fully sufficient for the honourable discharge of their functions. Let this, for the sake of argument, be conceded. But, if the five days of the assize are at present proportionate to the public business, as the latter augments every year, they must become inadequate, in an increasing series, by the lapse of time. For, during each assize, new roads are projected, increasing proportionally the demands on the public, and the duties of the grand jury. In the year 1814 there were executed 3265 perches of new road, or about 12 miles. At this rate, the roads of the county of Limerick,* at present computed at 900 miles, will, in 1824, exceed 1020. If, therefore, the duties of grand juries are at present difficult

* The county of Limerick is not the most powerful example which might have been adduced. In size it is only the twelfth county of Ireland.

of execution, must they not in future become wholly impracticable; or, even granting that they *may be brought*, at present, within the reach of performance, do they not carry, within themselves, the seeds of their eventual destruction? An attempt to concentrate within a limited sphere, important and increasing duties, is absurd. It could only be warranted by supposing, that a constant, and varying quantity, could continually bear towards each other the same ratio. It is an attempt to realize the promises of the bottle conjurer; and, like the mechanical condensation of air, is only calculated to elicit fire by the experiment.

It is necessary here, even at the risk of being considered tedious, to recapitulate the arguments hitherto advanced. If it appear, that grand juries are in themselves objectionable bodies for the discharge of the duties in question—if it appear, that all the passions and prejudices of man are combined against the system—if it appear, that frauds incidental to the system, and likely to occur, are capable of defeating the most upright intentions—if it appear, that, from want of due information, and of reasonable time, it is nearly impossible that such upright intentions can be realized—if it appear, that the difficulties complained of must, unquestionably, augment by the lapse of

time:—if these arguments are admitted, it is not easy to conceive upon what grounds the presentment laws can be defended.

Previous to quitting this branch of the subject, a few additional observations must be allowed. In a country like Ireland, “with which the law has never thoroughly mingled itself,”* the elevated point of view in which the judicial office is placed, is of the most incalculable benefit to the community. The arm of justice should not only be strong, but her countenance should be lovely—her form majestic. Any measure which degrades her in public estimation, retards the march of Irish civilization, if it does not wholly interrupt its progress. And such appear the practical effects of the Grand Jury Laws. The dignified characters who occupy the bench of Ireland, have unworthy functions to perform in executing these impolitic statutes. The judges are placed in a situation where their concurrence is apparently given to a system, odious in the sight of the people. The judicial character is, therefore, associated in public estimation, with the evils complained of; and yet in the course of the

* State of Ireland, past and present.

transaction, the judge is scarcely more implicated than the crier of the court. He is not to inquire whether the disposal of the public money is wise, or its expenditure well administered—No, his duties are more elevated, and more important. His is the mighty task, to inspect all slips of the pen; all verbal inquiries;—to inquire whether gravel and small stones are synonymous, or whether powdered pavement be a parliamentary* phrase; to investigate the value of the stamp, or to inspect the watermark of the legal paper. In short, nothing is left to the judge but a controul over the forms: if these are complied with, it is imperative upon him to fiat the presentment. Thus the observations of Burke are realized: "He, who formally is, and substantially ought to be the judge, is, in reality, no more than ministerial; a mere executive instrument of private men, who are, at once, the judges and parties. Every idea of judicial order is subverted by this procedure."†

* A legal objection was taken against this phrase by a most able and excellent legal character. The doubt was near throwing out the entire presentment business of the assize.

† Speech upon Economical Reform.

In proportion as the fair execution of justice is important, ought to be the censure of any measure which impedes it. The benign jurisprudence of Britain has expressly provided, that *no conviction* shall take place, unless when supported by the decisions of two juries. According to this principle, the case of every person accused is laid before the grand jury: it becomes the duty of that body "well and diligently to inquire" into the grounds of the prosecution. In England, this is performed by a careful and laborious personal examination of witnesses, conducted with the decorum and industry of legal proceedings; and the bills are found or ignored, according to the evidence, thus received *ore tenus*. The depositions taken before the magistrate are not laid upon the table of the grand jury. Parole evidence, alone, is received; and except under very peculiar and controuling circumstances, the illegality of written examinations is admitted. "In Denby's case (4 Leach 11.) the grand jury, upon the prevarication of a witness produced before them, applied to the court for the depositions taken before the magistrate; but they (Gould I. and Hotham B.) refused the application; declaring, that as the best testimony was the *vivâ voce* examinations of Denby himself, they could not abandon that and resort to the se-

condary evidence, resulting from his written depositions.”*

When governed upon these principles, it may truly be asserted of the grand jury, that “there cannot be found, in the annals of the world, a regulation so well calculated for preventing abuses in that part of the executive, which relates to the prosecution of crimes.”†

In Ireland the practice of grand juries is wholly different; their time being engrossed by duties of an opposite nature. Except, for one particular offence, the personal examination of witnesses, is scarcely ever carried into effect. The informations sworn before the magistrate are merely read over; their verbal correspondence, with the indictments, is collated; and thus the proceedings become little more than a matter of form. If there is no direct absurdity, no absolute contradiction, upon the face of the information, every bill is found, and the public and individuals are heavily amerced on the acquittal of prisoners, who, in point of fact, should never have been sub-

* Vide a most eloquent and constitutional charge by Robert Day, M.P. chairman of the quarter sessions for the county of Dublin; at present one of the justices of the King's Bench, Ireland.

† Millar's View of the English Government, book ii. c. vii. § 2.

jected to trial. The laws are evaded; the most important constitutional principles are violated; a legal trial is not afforded to the accused; the double verdict of a grand and petty jury has been found in form only; and this is occasioned by the pressure of presentment business, to which all other grand jury duties are sacrificed.

But, it may be imagined, that hitherto the evils have been magnified, without credit being given for the remedy provided by the legislature. In this case, the remedy will be found delusive and impracticable. It is true, that, during the continuance of the assizes, one or more traverses may be entered against any presentment granted; such verdict to be tried by a petty jury, the verdict of which is conclusive. Yet, as the grand jury proceedings are supposed to be secret, no person but a juror can be imagined apprized of what has taken place. The presentments that are passed, are taken to the judge, at the last hurried moments of the assize, and are first made known to the public, by being read over in court. A person feeling it his duty to traverse, must watch these proceedings most closely, and take advantage of the precise moment when the particular presentment is read. He must, indeed, possess a prophetic spirit, in order to guess, whether the

presentment, of which he disapproves, has been granted or rejected. He must, then, step forward, not only to state his objections—not only to claim a fair trial, but to hand a fee to the clerk of the crown, without which no traverse is entered. It is a strange system, which makes the possession of a certain sum an indispensable preliminary to any judicial inquiry.

Another singularity exists; every traverse, say the lawyers, must be entered during the assizes: this is enlarged, by construction, to the duration of the entire circuit. Thus the course of the Munster circuit being through the towns of Ennis, Limerick, Tralee, and Cork, the traverser at Ennis is allowed a delay during the three subsequent assizes: the freeholder of Limerick can hold back whilst the judges visit Tralee and Cork; and the inhabitants of Kerry, whilst the commission continues open at Cork. The resident in the latter county, so far from being placed on equal terms with his neighbours, is entirely confined to the short space of time the judges remain in his county town. This statement will hold good in all the circuits of Ireland.

A more material objection lies to the remedy of traverse: in order to take advantage of it, a man must step forward, in a manner disinterested and generous beyond example; aban-

doing all personal considerations, for the sake of the public: indeed, with a degree of self-devotement, quite chivalrous. He not only receives the spears of all the jobbers upon his buckler, but must cast his purse into the scale. He becomes subject to the costs of all his expenses, without any means of recovering them from the defendant, even though a verdict should be found against the presentment. In order to bring the principle of traverse into action, men must be pre-supposed regardless of their own interest and their own repose. Can this be called a remedy, which rests upon an hypothesis so improbable? Traverse remains a dangerous instrument of private malice, though a most insufficient guard for the interests of the public.

Another objection still remains, which may appear decisive. Were all the questionable presentments to be tried by traverse, the entire circuit could not dispose of the issues which would in such case go to a jury; and the business of traverse would create as much confusion in the courts as the presentments occasion in the grand jury chamber.

SECTION II.

It now becomes necessary to inquire, how far the powers vested in grand juries, are effectual in accomplishing the objects of their destination.

The great principle of well-managed roads is a constancy of attention, a permanent application of adequate sums, a diurnal care preventing the necessity of great disbursements. To keep drains open, to prevent the lodgment of water, to remove nuisance, to preserve fences, and to punish depredators, require daily and unremitting attention. It is by *never suffering a road to get out of repair*, that economy and comfort are combined. What is the effect of the Grand Jury Laws?—the reverse of the principle just laid down. No money can be appropriated to the public works till it has been proved by affidavit that they are already out of order. Thus the object sought, is not the *preservation* of the public roads: the nature of the system demands that a road should be proved already to be positively bad, before one single step can be taken for the interests of the public. The more extreme the case becomes, the stronger is the argument for obtaining presentments; and thus it is for

the interests of all, who seek to dispose of public money, that the road should generally be in the worst order; unless the roads *fortunately* become impassable, the two credible witnesses required by the statute, and the magistrates who authenticated their testimony, cannot conscientiously perform their respective duties, and the public money remains in a shameful state of stagnation. In justice to the subject, however, and to satisfy the lovers of a brisk circulation of wealth, it must be stated, that the possibility hinted at is of rare occurrence. Luckily for the industry of the poor, and for the exertions of the jury, the roads are never in this melancholy state of improvement. On the contrary, to use the words of an ancient statute, they are "in many places verie noy-
"some and tedious to travel in, and verie dangerous to all passengers and carriages."* Each assize, therefore, brings forward a long and black criminal calendar of highways; and such ruinous circumstances as a maiden assize; checking this useful demand for productive labour, is a consummation, not more improbable, than it is undesirable.

Arguing seriously; to make the bad state of a road the *sine qua non* for employing the

* 11 Jac. I. cap. 7. Statutes at large, vol. i. p. 444.

public money upon it, is to adopt a mode of management both extravagant and ineffectual. It is as absurd as to imagine the refusal of a banker, to discount the bill of a mercantile friend, upon the strange plea of the prosperity of the applicants affairs, and the soundness of his credit. A refusal, combined with the extraordinary promise of assisting him to any extent, when his property has vanished, and his name has appeared in the gazette. Is it not evident that such conduct must end in the bankruptcy of both parties?

Another consequence of this singular enactment is, the necessity which it induces of a repair, augmented not only in expense, but in inconvenience. When a road is suffered to get out of order, vast masses of materials are piled together to restore a plain surface, and to account for an extravagant expenditure. This is, in fact, the removal of one evil by the substitution of another. The broken stone, the heaps of accumulated gravel, retard the public communications, as effectually as the ruts they are intended to efface.

It has already been shewn, how much deception may be concealed in the form of grounding affidavits: it remains to be proved, that no less evil is attended upon their execution.

Let a presentment be granted at ten shillings

each perch or pole, for the repair of two hundred perches, lying between Hyde Park corner and Hammersmith, a distance of one thousand perches : let it be assumed, that two hundred perches really require an expenditure of ten shillings each, while the remaining eight hundred might be repaired for one fifth part of the sum. In such a case, the holder of the presentment would select all the best parts of the road for his labours, and would leave the *bad steps*, as they are called, untouched. He would thus defraud the public of £80 in the £100; receiving at the rate of ten shillings, and repairing at that of two. An appeal may be made to every person connected with Ireland for the accuracy of these facts, and the frequency of their occurrence.

It is true, that grand juries may contract with individuals for a stated sum; the condition of which contract is intended to be the repairs of particular districts of roads. This, in principle, is rational; and, as far as the terms of the engagement are performed, is beneficial: but, unfortunately, the whole proceeding is subject to the grand jury; and consequently partakes of the evils already detailed. A contract may be made a matter of patronage and favour. It may be obtained by fraud, or what is still more usual, whilst its salary is

regularly claimed, the reciprocal duties which it implies remain imperfectly fulfilled, if not entirely neglected. A grand jury uninformed, and oppressed by business, have no opportunity of inquiring into the facts of the case. An affidavit, perhaps only nominally sworn, is brought forward, is passed as a matter of course, and the money is transferred to the contractor, without farther inquiry.

A late passed act has considerably improved upon the principle of contracts, and appears calculated to be highly useful. By the 49 Geo. III. cap. —, grand juries are authorized to appoint any qualified person, as a supervisor without salary, of an extent of road, not exceeding eight miles. Supervisors appointed under this act are allowed to expend £16 by the mile, for the improvement of the roads under their inspection ; together with two-pence by the perch, to remunerate a deputy. This plan is excellent. It implies, that the repairs of a road are more a matter of attention, than of expense ;—it implies, that unceasing care is the best economy ;—and it implies, that the sums, at present levied by the votes of grand juries, are inordinate and prodigal. This statute is, in fact, a departure from the presentment system, and a most important emendation of its provisions ; with which, indeed, it is in such direct opposition, that both cannot, by any

mode of reasoning, be defended. Viewing the statute in this light, it becomes a strong confirmation of the arguments advanced in the former parts of this Essay.

Under the existing Grand Jury Laws, a presentment granted in spring must be executed previous to a subsequent assize, when it is accounted for, and the money, sworn to have been expended, is repaid by the public. The overseers are thus in advance, and their loss and inconvenience are, consequently, in proportion to the period of such advance. Hence, it becomes their interest to shorten this space of time as much as possible; and to delay the commencement of the works, till the time approaches, when they are entitled to reimbursement. The effects of this delay are more important than might at first be apprehended. The entire public work is postponed to the last moment. A few weeks, sometimes a few days before the assizes, all is bustle and confusion. Men, horses, and carts, are put in requisition. Spades and shovels, pick-axes and wheel-barrows, are pressed into the service; and long and loud the battles of the highways rage. The conflict is fortunately as bloodless as the campaign has been ineffective, and

*Hi motus animorum, atque hæc certamina tanta
Pulveris exigui jactu compressa quiescunt.*

Labour becomes greatly enhanced in expense by the increased demand, and rises from ten and thirteen pence, to two shillings and upwards. The public works, even if honestly undertaken, are, therefore, executed one hundred per cent. beyond a fair estimate. A system which covers such extravagant losses, may be well imagined to possess most extraordinary profits; these illegitimate profits become the measure of the public loss.

Nor is increased expense the only evil thus produced. Every work is executed with so much hurry and confusion, that nothing can be brought to perfection. The grand jury of the city of Cork have, on this account, been forced to publish the following statement, which is confirmed by the resolutions of similar bodies in other parts of Ireland: "The work is frequently left undone, till towards the approach of the assizes; and consequently, is then executed in such a hurry, as very soon again to require repair at the public expense."* Velocity becomes the order of the day; and, if a miraculous dispatch is shewn in the repairs of the public roads, no less celerity is exhibited in their disorganization.

* Reports of the House of Commons, Irish Presentments, 1807.

No allowances are made for the vicissitudes of the weather, or for the necessities of agriculture. "Eternal springs, and cloudless skies," are relied upon as matters of course, and "the seasons and their change," are all to be controuled by the construction of an act of parliament. At a given signal the vast army of road makers and road jobbers is set in motion; and meadowing, tillage, and the important article of fuel, are hazarded for the success of its operations.

Singular inconvenience arises from the absence of consistency in the management of the public works. A grand jury is transitory, without any duties beyond the period of the assize. "Whoso cometh next in place, will not follow that course, however good, which his predecessors held, but will straightway take a way quite contrary to the former. Even as two physicians should take one sicke body in hande, at two sundry times, of which the former would minister all things meet to purge and keep under the body, the other to strengthen it again suddenly; whereof, what is to be looked for but a dangerous relapse."*— Is it to such a body that powers should be

* Spencer's State of Ireland, p. 148. 174.

confided, which require unvarying attention and permanent controul?

If a road demand repair, soon after the county assize has been held, no effectual steps can be taken for its improvement, till the next local visitation of justice: the public remain inconvenienced, and the most necessary communications become impracticable. "If a road gets out of repair in October," observes Mr. Townshend, "it must remain in a constant state of deterioration till the ensuing assize in April. This has *generally happened*, in some part of the road near Bandon, which, *for a great part of the year*, is nearly impassible."* It may also be added, that every hour's delay becomes a source of increased expense, as it may fairly be asserted, that two shillings by the perch will do more to preserve a road, than ten shillings to repair it.

But even if the grand juries were disposed to act consistently, they do not possess the necessary data on which to reason. For this, some intelligible record of past transactions—some index to money expended, and overseers employed, would be requisite. Nothing of this kind is accessible, no methodized statement of the labours of former years being made. In

* Statistical Survey of the County of Cork. Addenda, p. 24.

grand jury proceedings, all is transitory and evanescent—the jurors themselves, the overseers, the public money, and the public works.

Much evil is also derived from the inequality of the districts, into which Irish counties are divided. “The baronies and parishes,” observes Sir William Petty, “are now become marvellously unequal, so as some are twenty times as large as others.”* Subject to these ancient, but unmeaning partitions, the public works are executed, and the levies apportioned. The increased severity of taxation, and the rapacity of jobbers, are, in general, proportionate to the size of these districts. The conclusion deducible from this fact, would seem to be, that where a district is too extensive to create one common bond of interest and of attention, the public will soon become careless, the grand jury prodigal.

The map of the barony of Lower Connelloe, prefixed to this essay, exhibits a most extraordinary reticulation of roads: 180 miles of road are comprized within its limits. These, computed at thirty one feet, from the extreme points of the fences, will occupy 560 acres of

* Political Anatomy of Ireland, p. 372.

ground; averaging three pounds; making a loss of annual income of £1,680. Such a wilderness of roads, parallel to each other, or, converging to one centre, manifestly laid out without adequate motive, evinces in itself the many deficiencies of the present arrangements. The eastern side of the barony, intersected by numberless roads—the western with scarcely any means of communication—exhibit a strange want of balance and of equality; 400 acres of these roads may possibly lie within a single district. Would the landed proprietors, it may be asked, have consented to resign so considerable a portion of their estates without some adequate consideration?—The fact is, that roads are discovered to yield a more profitable crop than farming,* and are estimated accordingly.

* For the information of transmarine agriculturists, a course of crops is subjoined, as recommended by the most celebrated practitioners.

1st year.
Clearing drains
and water courses.

In executing this operation, remove the earth with which dykes have been filled at the public expense: this will afford excellent manure. In order to augment its quantity, cut away the road on each side, till you leave it a correct representation of the Mussulman's Bridge to Heaven, the edge of a scymetar.

If the grand juries are unable to effect the repairs of public roads, how much more incapable are they to direct the execution of new lines of communication. In order to decide between the comparative merits of projected roads, calmness, deliberation, engineering skill, and perfect impartiality are required. It would, indeed, be strange, if 23 country gentle-

- | | |
|---|---|
| <p>2d year.
Cutting down
hills.</p> | <p>The operation of cutting down hills is attended with one very beneficial result. The road never being levelled, is left within a gravel pit, or a quarry: the strata exposed to the curiosity of geologists. Hence a new presentment becomes indispensable the following year.</p> |
| <p>3d Year.
Gravelling the hills
cut down the year
preceding.</p> | <p>This needs no instruction. We shall only suggest the impropriety of levelling hills too effectually. The air is always purer, and the prospect finer on the summit than at the base; besides a recurrence to these crops may be looked to, and the ground should not be exhausted.</p> |
| <p>4th year.
Filling certain
deep and dangerous
dykes.</p> | <p>These must be carefully filled with earth, and soft vegetable substances, to furnish manure for spring tillage, and to bring you back advantageously to a renewal of this course of cultivation.</p> |

men were able to decide upon subjects which demand the science of an engineer, and the attention of a practical surveyor. The execution of new roads is the most important part of the works of every country; for the established lines are, in almost every case, objectionable. "Before carriages of burthen were in use," observes Mr. Edgeworth, "little more was required than a path upon hard ground, that would bear horses; and when roads had been once thus traced, indolence and habit prevented any great exertion to lay them out in better lines. When heavier carriages made wider roads necessary, the ancient track was pursued. Ignorance and want of concert in the proprietors of the ground; and, above all, the want of some general effective superintending power, continued this wretched practice."* These remarks seem in every particular applicable to Ireland. It is true, that by the — Geo. III. cap. —, the mail-coach roads are more rationally managed. Under this act, a survey and estimate, by scientific engineers, become the groundwork of all subsequent proceedings. This is an entire change of the Grand Jury Laws; which were found so exceed-

* Edgeworth on Roads, &c.

ingly faulty, that when government became directly implicated in their operation, a variation from the system was judged indispensable. But, are mail-coach roads alone to be placed upon a proper footing; and, are all other highways to remain entrusted to the mercy of grand juries, and to the controul of impracticable laws?

“The good roads,” remarks Mr. Arthur Young, “are all found leading from gentlemen’s houses, like *rays* from a centre.”* Could this eloquent and metaphorical writer visit Ireland in the year 1815, he would find still more curious illustrations for his engineering optics and astronomical road-making. From rays and centres, he might pass, by an easy transition, to the entire solar system, as described among the presentment roads; taking especial care not to omit the courses of the comets, so notoriously eccentric. In pursuing his scientific researches, he might also detect a wonderful analogy to the curve and asymptote, in the affidavit and expenditure which seem fated never to coincide.

* Tour in Ireland, vol. ii. Appendix.

SECTION III.

THE most important arguments against the Grand Jury Laws yet remain unconsidered;—their effects upon the community at large.

In the first section of this essay, it has been shewn, how fatal is the re-action of the presentment system upon the body of the grand jury itself. In such a discussion, combined with the imperfection of the works executed, most of the direct interests of the higher classes are comprehended. That important class of agriculturists, including both farmers and peasants, must now be taken into account; and an investigation must be attempted of the effects of the Grand Jury Laws, upon their interests, their happiness, and their moral character.

I. The state of Irish agriculture is such, as to limit, exceedingly, the profits of the cultivator. The prophecies of Adam Smith, and of Bishop Berkeley—the principles of Mr. Malthus, are, in Ireland, fulfilled and confirmed. A peasantry subsisting exclusively upon the cheapest and most abundant article of food, has produced a most extraordinary rise of rents. “Rents, in Ireland, are not a propor-

tion of, but nearly the whole produce. The actual cultivator is seldom better paid, than by scanty food, ragged raiment, and a miry hovel. Competitors for land will offer the whole value of the produce minus the daily potatoe.*—Nor is this all: the heavy expenses of repairs, &c.—“ *les dépenses foncières*”—as they are called by the economists, which in England are not borne by the tenants, though paying light rents, and possessing enormous capital, are, in Ireland, thrown upon a wretched peasantry; to whom capital and light rents are terms in an unknown language. The rapid increase of church property has been another great source of evil. Tythes, raised on the plea of high prices, are not lowered with the cessation of their nominal cause; and the same levies are, very generally, collected in 1814, and 1813, though the produce of agriculture has, within the interval, been depreciated fifty per cent. Church rates become sometimes oppressive, and appear always vexatious. The taxation of England is by no means a case in point, or a sufficient justification, however enormous its amount. In that happy country, if a heavy rent is paid, much of it returns in comfort and

* State of Ireland,

liberality among the individuals from whom it is collected. If tythes are complained of, they are still appropriated to the support of a resident clergyman, who is respected by his parishioners as a minister of the faith which they profess. If the support of the church demand considerable sums, still, within those sacred walls, the villager views the altar, where his marriage vows were given; the tombs, where his fathers sleep, the font at which he presented his children before his God.—Under such circumstances, all the strongest passions of the mind, and all the most virtuous feelings of the heart, combine to render pecuniary sacrifices the source of equal pride and satisfaction.

In Ireland is exemplified the very reverse of this picture. A jealousy of his landlord, from whom he derives but little advantage—a jealousy of the ministers of an establishment, often considered as adverse to his own—makes every payment for their profit appear grievous to the peasant, not only as the means of oppression, but as the stigmas of reproach. The ecclesiastical state of Ireland, has greatly changed, since it was described by the old geographer, Heylin; “as for the clergie,” he observes, “they have been little beholden to their lay patrons in former times; some of

their bishops being so poor, that they have no other revenue than the pasture of two milch beasts.* Modern ecclesiastics, on the contrary, seem desirous to rival the reputation of St. Asicus, the first bishop of Elphin, whose claims on heaven are there briefly detailed by the antiquarian Ware. "*Sunt qui tradunt Asicum hunc, aurificem fuisse præstantissimum.*"†

Subject to a variety of hardships, without any opportunity of acquiring independence,—deprived of all the comforts, and restricted in many of the necessities of life;—oppressed by heavy rents, by high church rates, and vexatious tythes, it is evident that any additional direct taxation, unless moderately imposed, and equitably collected, must become the cause of accumulated suffering. If it can be satisfactorily proved, that the local cesses, are not only grievous in their own nature, but peculiarly oppressive in their consequences, a case will have been laid before the public, which has claim not only upon parliamentary generosity, but upon parliamentary justice.

"The greatest evils of taxation," observes Sir William Petty, "arise from unequal assess-

* Heylin's *Cosmographie*, fol. 1669, p. 292,

† *De Præsul. Hibern. Ware*, p. 254.

ments,—the vain expenditure of sums raised, the obscurity of the authority by which they are imposed.* These three evils seem, most ingeniously, combined, in the administration of Irish county levies. From the subjoined tables it will appear, that, in neighbouring districts, the taxation frequently varies two and three hundred per cent. In the county of Tipperary, the parish of Kiltinan is found to be assessed at £14 5s., by the hundred acres, whilst the parish of Dowshill paid but 8s. 2d. To enumerate particular instances, would be tedious; the tables will in themselves afford sufficient information; and the more zealous inquirer will find means to satisfy his curiosity, by consulting the reports printed by order of the House of Commons.

These prodigious inequalities of taxation, constitute in themselves, a crying evil. How oppressive must appear, to a peasant, the obligation to pay, for his miserable acres, a tax three or four times greater than is levied upon a neighbouring farm. Will the geographical boundary of a brook—"the magic of a name," as applied to different counties, or all "the dissonant consonant" appellations by which Irish baronies are distinguished—reconcile

* Treatise on Taxes, pp. 18, 19.

him to what appears so flagrant an injustice? His rents may be equal to those of his neighbours, the quality of ground may be the same, the produce may command the same prices at market, and yet, by the caprice or the oversight of the grand jury, he may find himself taxed in a quadruple proportion.

The "vain expenditure of the sums raised" has already been adverted to. Of this fact, no persons are keener observers than the peasantry; and unless they "join in the chase, and share in the breaking up of the stag," it is an additional sting to be forced to witness the profusion and fraud, in which the funds increased at their own expense are lost to the public. Their corn does not reach the merchant on cheaper terms; on the contrary, the roads daily become worse; and yet, for this progressive deterioration, the occupiers of land pay a most enormous price.

The "obscurity" of these assessments, is such, as to render them liable to the most unjustifiable abuses. The collections are apportioned according to certain surveys, which differ most materially from the actual contents of the land. The objects of such survey was to bring the valuation of land to one uniform standard; and hence the contents of unproductive farms, are calculated in reduced acres, diminishing

their number as the quality of land becomes depressed. This system, however wise, for a particular purpose can be but temporary. The improvement of ground is far from being uniformly and proportionably progressive. It is, therefore, incapable of being calculated by one unvarying expression. A scale which has not altered during a vast lapse of years, must become the cause of great irregularity. A mountain farm in the county of Limerick, rated but at 241 acres, nominally contains upwards of four thousand.* At the time when the calculation was made, the rent of the estate in question might not have exceeded £200; it at present pays upwards of £2000, and yet its contribution to the county levies continues uniformly the same. Another estate, within the same district, pays no contributions whatever, though containing acres of rich land, averaging by the acre. These imaginary surveys are fully deserving of the censure, applied by Sir William Petty to the more ancient divisions of Ireland. "As to these townlands, plowlands, colps, gneers, bullibellaghs, bullibos, twos, horsemens, beds, they are at this day manifestly unequal, both in quantity and value, being made upon grounds that are all obsolete and antiquated."†

* The farm of Clounahard, the estate of the Archbishop of Tuam, held by the Honourable Richard Hobart Fitzgibbon.

† Political Anatomy, p. 373.

The peasant may indeed learn what are the real contents of the spot he cultivates; but to investigate what fractional part of a townland it equals, according to the Down survey, or the Barony books, is a mystery beyond his comprehension. He is, therefore, forced to pay whatever is demanded, and possesses no means of redress against any oppression in the collector. The applotment is made in the gross, the levies in detail, from individuals possessing insignificant tenures. A small advance exacted from each occupant, swells the aggregate amount to a vast sum of illegitimate profit which remains the perquisite of the collector. "It is supposed," remarks Mr. Townshend, "that the contents of some baronies exceed the return made by the collectors; in which case, as the rate is formed upon the latter, the lands are overcharged; and the surplus becomes a perquisite to the collector."* The following resolutions of the grand jury of the county of Limerick, in 1812, afford the strongest confirmation of this statement, and reflect the highest credit upon their framers. It is to be regretted that the nature of the grand jury systems should have prevented these laudable intentions from being carried into effect.

* Statistical Survey of Cork, p. 78.

" Resolved.—That it appears to us, that there is a difference of several thousand acres in all the baronies but one of this county, between the survey on which the applotments are made, and the close survey under which the lands are holden, by the respective tenants.

" That we are informed, that in many instances, on some townlands in the county, the levy is made according to the close survey.

" That it is the duty of the grand juries of this county to make such inquiries on the subject as may tend effectually to redress the tenants so injured; the more particularly as the yearly levies have increased and are increasing.*

If Sir William Petty's principles are correct, and that a system of taxation is iniquitous which is unequal in its pressure, useless in its destination, and obscure in its imposition, is not a strong case made out, towards demonstrating the county levies of Ireland to be, in respects the most important, objectionable, and injurious?

II. But, pecuniary losses, are not the only evil to which the peasants of Ireland are liable.

* Had these grand jurors been admirers of Whig principles, they might have parodied, to the last words, Mr. Dunning's resolution in the English House of Commons.

An indefinite power of oppression is confided to the ministers of these local impositions, and is most cruelly exerted by them. The whole, or any part of these levies, may be recovered by the summary of process of distress and sale. This efficacious, but severe remedy, is so tremendous an instrument, that its powers should be confided to individuals with the greatest caution,—its operations watched with the greatest jealousy. Between a landlord and a tenant the case is peculiar: the former is supposed to deal upon liberal terms; he allows the purchaser of the commodity he brings to market six months credit for the discharge of his engagement; and might be liable to constant loss if he were not specially protected by the legislature. His interests also, and that of his tenantry is blended. They must be flourishing, that he may become opulent. Their improvement is his security. An act of injustice to them becomes one of injury to himself. Thus the hands of the landlord may be strengthened, and yet the prosperity of the tenant continue unindangered. The claim of interest, as well as the obligations of duty, ensure the protection of the landlord. As individuals, the parties are brought into contact immediate or indirect. Claims to indulgence may be made and admitted, and the last re-

medy of distress and sale: this *ultima ratio* is seldom enforced, but under very peculiar circumstances. It is through these "certain strainers, well refined," that this violent medicine is adapted to our British constitutions.

In the example to be considered, none of these happy modifications exist. The collector, or the sub-collector, the deputy, or the deputy's double—this shadow of a shade—is seldom bound by any restraints, either of character or of benevolence: There is no common bond between him and the peasantry; or if connexion exist, the interests of the parties vary inversely with each other; for the collector's highest profits are derived from his most adverse proceedings. He resembles those mosses and lichens, which only thrive amidst the winter and desolation of all around them. He cares not what may be his modes of collection, provided they are found productive. His authority is but temporary; its exertions are without controul; almost without responsibility.—His individual profit is every thing—general loss is unimportant in his estimation. He is connected with the peasant by no ties, either of gratitude or of hope. Invested with a controul over thousands of inhabitants, if any difficulties occur in making the levies, an extent of country, measured by the

square mile, becomes the scene of his devastations. It is not a single farm which suffers, as in the transaction between landlord and tenant; but entire parishes are laid waste: the manor pounds are unable to contain the cattle which are distrained; and journies of miles are undertaken to effect a sale, and to procure purchasers. These levies become "*une servitude publique, dont on a réduit l'injustice en système, comme pour lui donner une ombre de justice.*"* The principle of this tax is of a nature which tends to an unlimited increase.

It has no counteracting force to keep its augmentation within the limits of prudence. It is liable to the objection, which Hume strongly urges against a capitation tax. "It is so easy to add a little more and a little more, to the sum demanded, that these taxes are apt to become altogether oppressive and intolerable. On the other hand, a duty on commodities checks itself, and a prince will soon feel that an increase of the impost, is no increase of revenue."† The description of Ware is fully realized; "*cæterum in Hiberniâ exactiones istæ tanto rigore et insolentiâ fuerunt impositæ, neque porro certis temporibus neque*

* Raynal. Hist. Phil.

† Hume's Essay on Taxes, vol. 1, p.

locis limitatæ; at inde profluxerunt exilium et extirpatio multorum; alii ociosi facti, miseriarum et malorum temporum eventum expectarunt.* Such are the contingencies with which the Grand Jury Laws are attended; such are the results which have too frequently been witnessed, and which warrant the quaint condemnation of Baron Finglas; "these are evils which would destroy hell itself, if that they were used in the same."†

The principles of well regulated finance are ably stated by Mr. Bentham; they are here transcribed. With what ingenious mischief the Irish county levies have been devised, and in what complete opposition they are framed to the wise maxims of this theoretical legislator! "Le premier objet de la finance; trouver de l'argent sans contrainte, sans faire éprouver à personne la peine de contrainte et de privation. 2d objet; faire en sorte que cette peine de contrainte et de privation soit reduite à son moindre terme. 3me objet; éviter de faire naître des maux accessoires à l'obligation de payer l'impôt."‡ In

* Antiquit. Hibern. cap. xiii.

† A Breviat of the Getting of Ireland and the Decaie of the same, by Pat. Finglas, Squire, Chief Baron of the Exchequer.—Harris. Hibernia.

‡ Traites de Legislation, f. 1. p. 347.

Ireland, it will be found, 1st. That the punishments of constraint and privation are excessive, from their affecting those classes on whom they fall, with the greatest weight. 2d. That the punishments of constraint and privation are involved to their highest power. 3d. That the accessory evils attending these impositions are more grievous than the impositions themselves.

III. Admitting that, hitherto, no arguments may have been advanced, sufficiently powerful, to warrant the conclusions drawn from their consideration, one topic remains undiscussed, upon which the success of the cause might yet be staked—the effects of the presentment laws upon the character of the Irish people.

The condition of the peasantry of Ireland has, it is admitted, improved in some particulars; but it must still be acknowledged to remain attended with circumstances of misery and oppression. When the peasant is not maddened into an infuriated resistance, or soured by incessant disappointment, he exhibits a melancholy species of mental hopelessness, mistaken by a careless observer for indolent content. Unimproved by education, the restraints of moral duty become diminished in

force. Continually* fearful of deceit, his mind becomes deceitful. Oppressed with burthens

* The national character of Ireland, exhibits to this day the consequences of the misgovernment and oppression under which for centuries it laboured. To recur to the crimes of former times is impolitic; it only serves to create exasperation, to increase the pressure of existing grievances. To the melancholy accounts of Spencer,* and Fergus Morison,† no reference need be made. The ancient system of governing Ireland, may be estimated from two plans suggested by men of wisdom and experience. Harrington, in his Oceana, recommends that "Ireland should be ordered as might be best for the purse of England, and *planted with a colony of Jews.*"‡ Sir W. Petty reasons in the following manner: "There are among the poorer Irish, not above 20,000 unmarried women marriageable, nor would above 2,000 annually grow up as such. Wherefore, if the one half of the said women were in one year, and the other half in another year, transported into England, and disposed of, one to each parish, and as many English brought back, and married to the Irish, the whole work of union would be accomplished."§ What might be the other effects of this incorporation the political arithmetician stops not to inquire. If such were the views of the theorists and philosophers, what were likely to be the practices of captains and undertakers, as they were significantly termed, entrusted with

* Spencer's View of Ireland, 1596, p. 166.

† F. M. his ten Yeeres Travell, 1697, fol. book iii.

‡ Harrington's Works, fol. 1656, Introduction.

§ Sir W. Petty's Pol. Anatomy, p. 321.

disproportioned to his strength, he looks anxiously around for any means of extrication. Under such circumstances the presentment system seems calculated to continue this indigence, to produce his degradation. It has already been shewn that, as a tax, it is severely felt, and that, as an engine of oppression, its effects are incalculable. In addition to these considerations, the temptations to fraud which it holds out, to a peasantry indigent and uneducated, are nearly irresistible. Let a tenant be supposed in arrear, and without any independent means of paying off the demands of his landlord. No attempt need here be made, to describe the odious negotiations which too frequently occur. The delightful and patriotic annalist of Irish manners, has painted the de-

the controul of Ireland. If the Irish became, "*grandamente rozzi et semplici*"* if the proverb is well applied, "if negro was not negro, Irishman would be negro."† It is less the fault of the people, than the crime of the government. "*Nos vertus sont a nous, nos défauts sont les vôtres*"‡ is a fair answer to those who revile the Irish as a nation.

* *Relazioni del Bentivoglio.*

† *Berkely's Works—Miscellanies.*

‡ *Les fausses Infidélités, 1766.*

grading scene in colours so animated and so correct, that her accurate delineation need only be transcribed. The dramatis personæ, are Lord Colambre, and Larry Brady his charioteer; the scene of action, that luxurious vehicle, an Irish post-chaise.

* * * *

“ The travellers came, at this moment, within view of a range of about twenty-four men and boys, sitting astride on twenty-four heaps of broken stones, on each side of the road. They were all armed with hammers, with which they began to pound with great diligence and noise as soon as they saw the carriage.

“ The chaise passed between these batteries, the stones flying on all sides.

“ ‘ How are you Jem ? How are you Phil ? ’ ” said Larry. “ ‘ But hold your hand, can’t you, while I stop and get the stones out of the horses’ feet. So you’re making up the *rint*, are you, for Dennis ? ’ ”

“ ‘ Aye, its the *rint*, sure enough, we’re pounding out for him. For he sent the driver round, last Saturday was eight days, to warn us he would be down himself on Monday, to take a sweep amongst us ; and there is only six clear days Saturday se’nnight, before the assizes, sure ; so we must see and get it finished any ways, to clear the presentment against

the swearing day; for he, and Paddy Hart, is the overseers themselves, and Paddy is to swear to it."

" 'Dennis is it? Then you've one great comfort and security, that he won't be *particular* about the swearing; for since ever he had a head upon his shoulders, an oath never stuck in Dennis's throat.' "

" 'Poor *cratures!*' " continued Larry to Lord Colambre, 'they couldn't keep their cattle out of pound, nor themselves out of jail, but by making this road.' "

" 'Is road-making, then, a very profitable business? Have road-makers higher wages than any other men in this part of the country?' "

" 'It is, and it isn't—they have, and they haven't, *plase* your honor.' "

" 'I do not understand you.' "

" 'No, beca-ase you're an Englishman; but I'll shew you how it is. It is where there's no jantleman over these under agents, as here, they do, as they *plase*. And when they have set the land, they got rasonable, to poor *cratures* at a rock-rint that can't live and pay the rint, they say——' "

" 'Who says?' "

" 'These under-agents that have no conscience at all. Not all, but some, like Dennis, says, says he, I'll get you a road to make up the

rint; that is, please your honour, the agents gets them a presentment for so many perches of road from the grand jury at twice the price that would make the road; and tenants are, by this means, as they take the road by contract, at the price given by the county, able to pay all they get by the job, over and above potatoes and salt, back again to the agent for the arrear upon the land. Do I make your honour sensible?' ”*

Here has been given a detail of the whole proceeding. The grand jury deceived, or influenced—the peasant forced, by necessity, to fraud or perjury—the public pillaged, and the profit of these infamous transactions engrossed by some degraded swindler. The conduct of the legislature has practically become a refinement of cruelty. Within sight, and within reach of a distressed peasantry, are placed the most tempting baits. A sacrifice of principle—two false oaths are alone required.. Is it wise, or is it just, thus to set all the interests and passions of men in violent motion, and to attempt to check their course with a formula of affidavits? How soon do these official oaths sink into utter insignificance as a restraint; though

* *Tales of Fashionable Life*, vol. vi. p. 149.

still in re-action, degrading the mind which violates their sanction ! Is this a situation in which any people ought to be placed ?

Oaths become daily of less importance in the opinion of the multitude, and a permanent * source of evil is introduced, which leaves property and liberty without safeguard and protection. For "perjury in its general consequences, strikes at the security of reputation, fortune, and even of life itself.†"

If any scruples of conscience remain in the bosom of the peasant, some accommodating magistrate, who is "not particular about an oath," smooths the first descent to guilt :

"The honour'd justice speaks ; at his controul
Remorse and conscience quit the struggling soul ;
He tries each art, reproves each dull delay,
Allures to guiltier worlds, and leads the way."

The unfortunate peasant *finds* himself within reach of a most tremendous machine, and is forced to chuse between the alternatives of partaking of its motion, or being crushed by its weight. He sees around him the profits to be obtained by guilt ; he feels at every visit from the

* " Le crime d'un delinquant de mauvaise foi est une cause permanente de mal."—Traites de Legislation, tome ii, p. 256.

† Paley's Moral Philosophy, vol. i. p. 198.

collector, the inconvenience of his conscientiousness; he may fall into temporary embarrassment; illness or misfortune may reduce his family to distress, the landlord's rent unpaid, the future possession of his farm, and the consequent support of his children is endangered. Means of immediate relief are held within his grasp. Will he—nay, can he, refuse to embrace them? "His poverty but not his will consents." The sacred boundary is over-passed, and a return is beyond his power. Initiated in crime, he will become desperate in its prosecution, or harden his heart against the upbraidings of remorse. He becomes the point from which all criminal proceedings radiate; he introduces the young, and he confirms the old in the practice of crime.

"The centre mov'd, the circle straight succeeds,
Another still, and still another spreads."*

It is among individuals of this description, that the most dangerous spirit of disaffection will be found to exist: gloomy and dissatisfied with themselves, conscious of having forfeited all right to self-esteem, they shake off the memory of the past, in scenes of riot and turbulence. Amongst them, the secret assassin, the nightly depredators arise. The plunder of the

* Essay on Man.

public is not far removed from the plunder of individuals. Profits illegitimate and excessive lead to idleness discontented and dangerous; and from rapine to murder the steps are few.

For do such characters stand alone; connected with the jobbers in the class above them, their offences are winked at, to secure a share in the plunder. Such individuals carry all before them in a contest, where fraud and speculation are the surest qualifications for success. They are bound together by a consciousness of each other's guilt; and unless a quarrel occurs, respecting the booty, they continue faithful to their associates in crime. The good, as well as the weak, shrink from deeds of infamy which, however they deplore, they are unable to punish.

The perversion of mind, and total want of principle produced by these dreadful, these iniquitous laws, are beyond all calculation. At the summer assize, 1814, for the county of Limerick, during the investigation of the presentments, perjuries, frauds, and forgeries were clearly proved. No effectual steps were taken against any of the criminals, who were left at liberty to attempt anew the plunder of individuals and of the public. Yet this impunity does not arise from any deficiency of penal enactments; for in the words of Lord Boling-

broke; "their laws resemble the devil in many respects, particularly in this; they are, at once the tempters and the tormenters: they make the criminal and they punish the crime."* In short, no other effects of these oaths are visible, but the horrible guilt of breaking them; and as an old Scotch pamphleteer observes, "whilst things are brought to this pass, it ought sadly to be laid to heart, whether out of pure respect to the name of the most high God, it may not be a safer course, to lay aside the swearing and the imposing of these oaths, which do so notoriously tend to the corrupting of men's minds, and the searing of their consciences.†

We address ourselves to the reflecting part of the community—we ask them, whether the system we have described can be continued—whether, it is not in itself so radically vicious, that reform or modification is wholly impracticable. We ask, whether laws, which loosen all the ties of moral restraint—which undermine the foundations of all civil and criminal proceedings, by annihilating the obligation of an oath—which enable base and profligate men to obtain a most dangerous extent of influence—which become the source of indefi-

* Dissertation on Parties, Letter vii.

† Harleian Miscellany.

nite oppression—which sanction a vain expenditure of public money, and permit a fraudulent method of account; we ask, whether such laws can be continued. An argument has not been maintained against the use of this code, from its abuse. This is not the sickle which has cut the reaper's hand; it is, on the contrary, an engine so inartificially formed, and so mischievously wielded, as to destroy whatever is fair or useful within the circle of its destructive influence.

The national independence of Ireland has been yielded up—her national representation limited—she appeals to the magnanimity and honour of the imperial parliament, to perform the trust which it has assumed. Ireland demands a wise and unprejudiced consideration of these laws by the legislature, from every possible motive. She demands it as the means of augmenting her wealth, from the policy of parliament—as the pledge of domestic tranquillity from its wisdom—as the source of her moral improvement from its virtue. Upon absentee proprietors, Ireland lays a double claim; as possessors of an important share of national wealth, their interests are identified with a reform of Irish expenditure; as representatives of national territory, they are bound to support every measure for the redress of Irish griev-

ances. Their task is honourable, and its conscientious discharge must be as grateful to their feelings as serviceable to their interests.

“Mostrarse indiferente à las desdichas
Doblarlas es; y hacer un beneficio
De aquel que lo recibe hacerse dueño.”*

Upon the right honourable gentleman who has taken up the subject, the utmost reliance is placed. He has had an instrument within his grasp, which might have been perverted to the worst of purposes; and he has himself proposed to limit its powers, and controul its operation. For such conduct he is fully entitled to the confidence of his country; let him redeem the pledge which he has given, he will be entitled to her gratitude.

Unless the representatives of Ireland are disposed “to die, and make no sign,” let them upon this occasion step forward, and give some tokens of their political existence, beyond the circulation of their names, through the post offices of the United Kingdom. Let them not dread the resentment of disappointed jobbers; they will acquire the effectual support of the wise and good; and it is to be hoped that the latter are the increasing party. May it never

* Don Juan Melender Valdes.

be with justice imputed to our representatives, that "ambition or avarice have jostled them out of the straight line of duty; or, that the great foe of the offices of active life, the master-vice in men of business, a *degenerate and inglorious sloth* has made them flag and languish in their course.* If they perform the duties which they are bound to fulfil, and if the independent spirit of the English part of the legislature assist their honourable endeavours, every thing may be expected from such co-operation. If it be true that "the† stock of materials by which any nation is rendered flourishing are its industry, its knowledge, its skill, its morals, its execution of justice, and its courage;" let those practices be abolished, by which our industry is checked, our knowledge perverted, our skill misapplied, our morals contaminated, the execution of justice impeded, and all public spirit annihilated. Though its abuses have not been made the subject of factious complaint or party declamation, it may truly be questioned, whether any one measure could produce such general and permanent happiness as the effectual reform of the grand jury code. By

* Burke's Speech—Bristol Election.

† Burke's Letter to Sir H. Langrishe.

such a step the tranquillity of Ireland would be maintained ; her progressive improvement promoted ; and from Irish tranquillity and improvement may be traced the most efficient strength, and the most secure prosperity of Britain ;

Καὶ γὰρ φίλων ἀχρὺ
 Καὶ τῶ ἐν τῇ πιστοῦται
 ἀδελφὰ
 Θεμισσα χάρη.*

* Eurip. Phœniss.

PART SECOND.

THE observations hitherto made, have been the results of experience and of conviction ; they have therefore been advanced with confidence. In proceeding to investigate a possible remedy for the evils complained of, the tone of certainty must be exchanged for that of hesitation ; experience being here to be replaced by conjecture. Rational opponents, as well as prejudiced enemies, rise up against theorists and projectors, whose visions have so frequently been stigmatized as delusive and impracticable, that some degree of mistrust ever attends their consideration.

It is not easy to suggest a plan calculated to replace a system, great in its extent, and in its consequences. On the present occasion, it is undertaken with the utmost diffidence. Indeed, if it were not felt an imperative duty to suggest a remedy, after having pointed out a grievance, this Essay would have terminated with the foregoing statements. In political questions, the discussion in general turns upon a choice of difficulties : the plan to be

chosen, may more rationally be called the least imperfect, than the best. It is therefore easy for any person who inquires "too curiously," to point out defects in any system; and it is only by striking out a project more salutary in its consequences than the evils complained of, that the objections of a reformist become entitled to attention.

It is from this motive alone, that the following scheme is brought forward, and not from any confidence in the writer's opinion—a confidence which would be equally misplaced and presumptuous, at a moment when the subject under review has been introduced before the House of Commons.

Upon the accuracy of the statements hitherto made, the utmost confidence is claimed—the plans which follow are likely to possess no other merit but what must ever attend good intentions, and a deep sense of the important subject to which they are applied. They also claim some notice from their originality; for, hitherto, it seems only to have been contemplated, further to prosecute those attempts at reform, which for two hundred years have been tried; and, during two hundred years, have been acknowledged ineffectual. The present scheme ventures to suggest an abandonment of the system altogether.

The management of the public roads has been, in most European countries, committed either to the government, or to the people. Each of these alternatives is attended with important objections. Under the former, the English statute labour, and the Irish Grand Jury Laws, appear alike objectionable: under the latter, the *corvées* of continental Europe, have led to the most flagitious tyranny. Even in the British empire, where a milder government exists, because a greater vigilance of popular controul is kept alive, it would seem by no means adviseable to vest such additional powers in the crown. The history of the commissioners of sewers, abundantly proves, how dangerous would be such an experiment. In Ireland, this interference of government would be peculiarly objectionable. The annual distribution of an immense income, broken into small sums, and distributable at pleasure, would enable any ministry to obtain a most unconstitutional preponderance. The powers of influence, already excessive, would be incalculably increased; and government favours might be bestowed in such a manner, as to escape or baffle all animadversion. "A small sum in aid of places and pensions, of fears and expectations, might serve for the ordinary charges of annual corruption; and a small

saving reserved every year, might produce at the end of seven, a fund sufficient for the extraordinary purposes of septennial corruption.”* “ Were jobbing, in such a case, to be introduced, it would be jobbing by wholesale—jobbing, without redress. A power of controul may also be reasonably claimed by the parties who supply the ways and means : they may fairly claim a right to inquire into the disposal of taxes drawn from their own pockets. The county funds of Ireland are chiefly raised from the most destitute class in society : the occupying cottager tenants : these funds should, therefore, be watched with the greatest jealousy, and every possible precaution taken against their unnecessary augmentation. They should be considered a sacred deposit, strictly appropriated, and exclusively expended, for the advantage of the community. But, government expenditure is not often controuled by economy ; on the contrary, it must necessarily be conducted on less advantageous terms than the affairs of private men. It is not, therefore, with government, that powers can safely be lodged, which, above all things, require economy in their administration.

* Bolingbroke—Dissertation on Parties, Letter xix.

If these notions are correct, and that the conclusions drawn in the first part of this Essay are likewise accurate, it should seem, that neither by government, nor yet by the grand juries, ought the controul of the public works to be exercised. In whom then can it be vested?—In order to resolve this question, a few previous inquiries are necessary.

The management of the roads will, in every country, be found to require two governing principles. For the theory, engineering science, and general views: for the practice, local habits, and local information. In both cases permanent attention,* and some practicable redress of grievances should indispensably be provided. The plan suggested by the writer of this Essay may now be hazarded; and, if it is found to possess *any* of the qualifications here adverted to, it may claim some superiority over the system at present in force; in which, *all* of them are wanting.

Let there be entrusted to the Lord Lieutenant in council, an authority to divide the counties of Ireland into such districts, as upon survey and evidence shall appear adviseable. No district to exceed acres. These dis-

* An effectual mode of account.

tricts are to replace the present baronial divisions, in every particular relating to the management of the public roads.

Let a board of controul be appointed by government, in Dublin, consisting of commissioners, and a chairman ; four of these, at the least, to be civil engineers, bound to visit the provinces of Ireland twice in the year, and to attend at the spring and summer assizes of each county, and each county of a city. These officers to hold their situations during pleasure.

Let the grand juries of Ireland severally appoint, for every district within their jurisdiction, one practical road surveyor. These surveyors to continue in employment during good behaviour, and not to be superseded by the grand jury till after an investigation and conviction in open court. All such surveyors to obtain the security of some landed proprietor, within the county possessing the qualification of £ per annum : "such securities, when approved of by the grand jury, to enter into recognizances before a commissioner of the Court of Exchequer for taking affidavits, to double the amount" of the district levy. "No warrants to be issuable till a certificate of the enrolment of the recognizance is lodged in the treasurer's hands." The condition of this en-

gement is to be the security of the public money in the hands of the surveyor. All persons entering into their recognizances are to be esteemed supervisors without salary; both supervisor and surveyor to account upon oath for all sums expended under their direction; in the same manner as supervisors and their deputies now account under the 49 Geo. III. cap.

At each spring and summer assize, let a power be vested in the grand juries of presenting a sum not exceeding £ for every district. This sum to be considered in the nature of a vote of credit, for the service of the two quarters next ensuing. These sums to be drawn from the treasurer of the county, upon the joint affidavit of the supervisor and the surveyor, accompanied by a statement of past payments, and a sketch of future disbursements. No money to be drawn, more than seven days previous to the commencement of the intended works, nor any payment from the treasurer to exceed the estimated expenditure of the following fortnight.

Half yearly reports to be prepared by the supervisors and surveyors of the several districts, stating the condition of the works committed to their charge, the expenses incurred, the improvements projected, the rates of labour

paid, &c. &c. &c. These reports to be laid before the quarter sessions; held in the town next adjoining to each district, accompanied by corresponding vouchers, authenticating each item of the account. At these quarter sessions the travelling engineer of the board of controul must attend, and his approval of the surveyor's report, or his dissent from it, must be inscribed upon that document. Objections may be taken by any freeholder of the county to a part, or the whole of these reports: such objections to be laid before the grand jury, and tried in the nature of a traverse: the plaintiff, however, being allowed his costs in case he obtains a verdict against the presentment. These reports to be printed at the public expense, and sold at the office of the secretary to the grand jury. Two copies are to be reserved; one for the grand jury, the other to be lodged with the controuling office in the capital.

The duties of the grand juries would be the examination of these reports of all the districts within their jurisdiction, which should be laid before them, authenticated upon oath of the supervisor and surveyor, approved of by the travelling engineer, and passed at quarter sessions. Upon each of these reports it would be the province of the grand jury to record its opinion. A complaint against any officer em-

ployed under this system may be laid before the grand jury by the surveyor, the supervisor, by any freeholder at quarter sessions, by the board of controul, or by the travelling engineer. The decision of the grand jury to be conclusive; but all such decisions, as well as the investigations which lead to them, to be made in open court. The opinions of the grand jury upon the separate reports, to be printed at the conclusion of the assizes. All future levies to be made upon the several districts; the surveyors performing the duties of high constables, and becoming entitled to the fees at present collected. No distress to be made without the warrant of a magistrate, in which is specified the exact sum to be raised, and the quantity of ground from whence it is to be levied. The number of such distresses, and the sums for which they are made, to be included in each half-yearly report. All sums within a certain limit to be provided by the district; all above a specified sum to be collected upon the county at large. The mode of applotment to be recorded in the half-yearly reports. The board of controul to preserve the reports sent in from the district surveyors throughout Ireland, together with the consequent judgments of the grand juries, and to compile from thence an annual statement to be laid before parliament.

Estimates and plans for bridges, new lines of communication—all to originate in this department. The circuits of the engineers to vary continually; a new officer succeeding to each tour of duty, with every assize. The present grand jury powers relating to jails, charitable institutions, and officers' salaries, to continue unaltered.

It may not be useless to inquire into the probable consequences of the suggestions now laid before the public. But first, to guard against an objection, which may perhaps be urged. The system may be condemned as *complicated in its mechanism*. One sentence of censure thus applied is always more popular, and sometimes more powerful, than the most matured arguments. On consideration, so sweeping an objection may not appear applicable in the present instance. But even if it were, complex machinery, which fulfils the objects of its destination, may be preferred to animal force, more simple in its nature, but less effectual in its results. Yet, if complication be a sufficient objection in the present Grand Jury Laws, complication is indeed to be found: 23 controllers appointed half yearly, 2800 deponents, 1400 affidavits, formed the vanguard of the presentment array in the county of Limerick for spring 1814. Ten high

constables, 36 petty constables, supervisors without salary, contractors without duties; these are succeeded by 7090 overseers, 454 grants of money—"hos tota armenta sequuntur"—an innumerable multitude of accounting affidavits, and undischarged queries, attended by a corresponding train of overseers and deponents. If the scheme contained in this Essay is censurable from its want of simplicity, what reviewer can invent terms of critical vituperation sufficiently strong to stigmatize the "confusion worse confounded" of existing laws. In one point alone they are simple—most marvellously simple—and there the modern projector does not intend to rival their wonderful unity of design.—He does not venture to recommend that the very same person should plan, estimate, execute, and account for the expenditure.

Having endeavoured to remove this preliminary objection, an inquiry may be instituted into the probable operations of the plan now submitted to public consideration. This inquiry will be pursued, in the same order, in which the previous details have stood, that the causes and effects may with more facility be compared.

The division of Ireland, into reasonable districts, would at once remedy the inequality of

the present baronies, and the evils which that inequality produces. These districts, being of a moderate size, would have but one interest; their inhabitants might watch the proceedings, both of the collectors and the surveyors, with the most jealous attention. The entire conduct of these individuals would be brought within the sphere of their observation, and identified with their most immediate interests. The maps of the Irish counties, and the post office surveys for mail coach roads, would furnish data for the accomplishment of this object; and the attention of a few years would supply any deficiency in these materials.

The board, established in Dublin, would give a scientific direction to the public works of the entire kingdom. The commissioners holding their offices, under the crown, during pleasure, would be at once independent of the grand juries, and removable by ministry in case of any misconduct.

The surveyors nominated by the grand juries, would not, as at present, find it their interest to take as much and to expend as little as they can. Their profits would be certain, their salaries would be sufficient, to make the situation one of ambition to an industrious farmer, or to a respectable clerk. Such men would cling to an office of fifty or sixty pounds, an-

nual income; and would feel a security in performing its duties from their not being removable by private malice or cabal. The supervisor would have no interest in the transaction, but that of the economy of the levies, and the fairness of their expenditure. He would be most strictly bound to watch the conduct of the surveyor; because, having entered into a recognizance, conditioned upon the good faith of the latter, an extent might, at once, be issued against his property, in case of fraud or defalcation. The affidavits, both of the supervisor and surveyor, being taken in open court, the probability of nominal and fraudulent affidavits is greatly diminished.

By granting half-yearly votes of credit, the present system, by which the overseer is always in advance, is obviated. Small sums are drawn, as they are called for, and the public money returns, as it is earned, among the laborious peasantry. There weekly, or monthly payments, would introduce a ready money dealing, in a country where it is peculiarly wanting; it would lead to the establishment of markets; and bring the comforts of life more within reach of the poor. The public works might then be continued throughout the year, in place of being executed, nominally, in one twelfth part of the time. The wages of labour

would sink to their natural level, and the mearowing and harvests of Ireland would be materially benefitted by the alteration. To replace one short and unvarying formula, wrested, to every possible purpose, a plain and rational report would be prepared. Such a report to be framed with the sanction of the travelling engineer of the central board. It will be the duty of this officer to suggest new plans, to prepare new estimates, and to compare the work actually done with the money already expended. The reports being printed and circulated will become the subjects of inquiry and investigation. At the quarter sessions, all freeholders may be supposed to attend. There all inquiries, relating to contested items in the expenditures may be made, subject to the further control of the subsequent grand jury. Then the vindictiveness of traverse is obviated, and yet a sufficient remedy afforded. Those who contribute to the taxation are allowed to control its appropriation, the best of all checks, that of public opinion, is introduced, and no person dare attempt a fraud, who is not willing to encounter both punishment and infamy. The object of this investigation, at quarter sessions, would be to ensure complete publicity, and to enforce all preliminary steps of

account in the presence of the parties who are most interested in the transaction. This idea has already been suggested in a most useful bill, brought into the Commons by the Right Honourable the Knight of Kerry, and ordered to be printed the 13th March, 1810—a bill, which would have produced the most material improvement in the presentment laws. This bill provided against two principal deficiencies at present felt:—a want of estimate, and of a fair mode of account. It did not, however, strike at the root of the evil, or remedy the fundamental errors of the constitution of grand juries.

The duties of grand juries would thus at once be reduced within the means of performance. Assuming that the county of Limerick were divided into forty districts, forty reports would supply the place of fourteen hundred presentments. No party spirit or political feelings would be likely to interfere, in any considerable degree; all doubtful cases being tried in open court. The travelling engineer would attend to explain or to advise. The supervisor and the surveyor would be examined upon oath; information would thus be afforded, and the wild decisions of haste and ignorance would be avoided. New lines of road would be rationally struck out for the

public advantage. The travelling inspectors, visiting each province but once in two years, would probably be exempted from local antipathies and predilections, and might therefore decide upon principles of general utility. The modes of applotment being publicly stated at quarter sessions, would not be liable to the abuses of the present system. The profits on the collection—nine-pence in the pound—being diminished by the reduction of the baronies, the subinfeudation, by which the levies are at present brought in, would be done away, and one great source of fraud cut off. Oppression would be less liable to exist; for the magistrate's warrant would specify the exact sum legally to be claimed, as well as the acreable applotment. The districts being small, it would become the interest of every individual to inquire into the levies, and a more equitable taxation would necessarily follow. The duties of the collector would be strictly official, and an immediate transfer of the sums raised should be enforced into the treasury of the county. Steps might by degrees be taken to procure accurate surveys, and then surveys might become the basis of future taxation.

The permanent record preserved by the central board would ensure a consistency of exertion in all public works. In the most material

and expensive of these, permanence and security would be attained. Bridges, mail-coaches, roads, guard-walls, &c. being all under the direction—not of country gentlemen for one month—but of scientific engineers during the entire year.

This would be a system of checks and balances, each tending to economy and fair dealing. The supervisor would be a restraint upon the surveyor; the civil engineer would control the labours of both. The quarter sessions inquiry would ensure an equitable account, and would tend to prevent any profusion or misapplication of the public funds: the grand jury would audit the entire proceeding. The mischievous secrecy of their decisions would be done away: a sufficient time would be left for all criminal examinations, which then being conducted with the same propriety as in England, would be placed upon a constitutional basis, securing the liberty of the subject. The judicial office would be restored to its proper and elevated duties, and rescued from the degradation in which the Grand Jury Laws have involved it.

The wise and the good would become engaged in the public service. The jobber would shrink from a dealing, where his private views could no longer be criminally gratified. A vast resisting force of friction would be

removed from scrupulous consciences, and a wonderful economy of oaths would be introduced. The appropriation of £5 to the repairs of a bridge, at present, requires as many affidavits as are accumulated by a pound of tea, in its progress from the China ship to the consumer.*

One of the first and most material consequences of the proposed alterations in the Grand Jury Laws would be an immediate reduction of expenditure. It would be found one of the most useful duties of the travelling engineer, to strike off from the present list all unnecessary roads; all roads of private convenience to be maintained at private expense, such as are productive of benefit only to the jobber to be declared nuisances; and the public revenue applied solely to public purposes. Were it possible to expend judiciously £500 annually upon each of the forty districts, there would be in the county of Limerick, a reduction very nearly of one half in the expenditure; and by this prevention of fraud in the collection, a reduction, possibly of two thirds, in the taxation. These sums, also, be-

* "A pound of tea cannot travel regularly from the ship to the consumer without costing half a dozen oaths at the least."—PALEY's Moral Philosophy, vol. i. p. 193.

ing fairly and wisely laid out, would be likely to diminish ; the roads being in a continual state of amendment.

Before this Essay is concluded, it may be necessary to apologize for the severity of censure which has been applied to the presentment laws. If strong language has been used, it has proceeded from strong feelings and strong conviction. It may be deemed inexcusable for an individual to condemn with unreserve and irreverence, measures which have received the sanction of successive legislatures. Yet this imputed presumption may, it is hoped, be pardoned, when the censures pronounced by the legislature itself upon these enactments are taken into consideration. So early as the 4th Anne, the statute book asserts, that " it had been of late years the practice of evil persons, who felt more regard to their own private advantage than to the benefit of the public, to procure presentments to be made by grand juries at assizes and quarter sessions, for raising money for such uses, as by the laws of the kingdom were not warrantable; and that others, to serve their evil intents, had procured presentments for such uses, as by the laws of the land were warrantable, yet applied to the said use but a small part of the said money, and directed the remainder to other uses." In the 6th year of

Geo. I. the same evils continued, notwithstanding the act which was intended to prevent their recurrence. In that year, the preamble of the amended road act states, that "prepayments were sometimes made at assizes and sessions, for raising money for the repairing of highways, building and repairing bridges, when there was not any real occasion for repairing such highways and bridges; neither was the money so raised expended on that account, but was laid out, and applied to other purposes."

Two years after the enactment of a statute, intended as a panacea for these disorders, they were still found to exist in their original inveteracy, and it is declared, in the preamble of the 1 Geo. II. cap. that "notwithstanding all the *many good laws* already made for mending and repairing the highways in the kingdom, several things were by experience still found to be wanting, to attain the end intended by the said laws." In the subsequent statutes, the legislators seem to have been at a loss for assignable motives, the acts are therefore, in general, left without preambles; but the last of the series, the 36 Geo. III. cap. 55, hesitates not to condemn them all, *en masse*, "as ineffectual for the repairs of roads, and confused from their multiplicity." Such shameless ingratitude towards

these "*many good laws*," will, it is not doubted, be punished by some future *act* of retributive justice. The preamble of Mr. Fitzgerald's bill is awaited with impatience, to designate, as they deserve, the 36 Geo. III. and the system which it supports. This act contains ninety-seven sections; yet these are less numerous than its faults; *ης ραον ην αιουθμησαι τους οδον/ας η τους δακ/υλους*.* The fact is, that all the reforms hitherto devised, have only augmented precautionary measures. With these the powers and duties of grand jurors have increased, and a load of business, already excessive, has been rendered wholly impracticable. "The last state of those men has been worse than the first."

* Lysias. ap. Dem. Phal. de Eloce. § 270.

TABLE I.

Local Taxation of Ireland, for 1807.	Spring Assizes.			Summer Assizes.			Contents in Acres.
	£.	s.	d.	£.	s.	d.	
Antrim	11,228	17	6	9,709	3	8	383,020
Armagh	9,776	12	4	7,918	19	2½	170,620
Carlow	6,182	6	11½	1,472	11	0½	116,900
Cavan	8,659	10	6½	5,020	19	3	274,800
Clare	20,393	1	11	8,630	16	7	428,187
Cork	26,289	2	6	10,102	15	3	} 991,010
Cork (city of)	17,620	11	1	6,050	16	3	
Donegal	12,148	10	3	12,185	12	6	630,157
Down	10,929	10	6	11,317	19	6	344,658
Drogheda (town of)	579	10	10½				
Dublin	5,213	11	8½	4,833	5	6½	} 123,784
Dublin (city of) ..	540	11	4	400	0	0	
Fermanagh	6,375	8	4	2,744	4	2½	224,807
Galway	15,316	13	9	4,732	6	0½	775,525
Kerry	12,255	8	7	3,124	11	10½	636,905
Kildare	7,435	19	9	2,722	11	8	228,500
Kilkenny	10,106	13	8½	4,650	11	5½	} 287,630
Kilkenny (city of) ..	437	13	9	356	11	0	
King's County ...	8,099	7	9½	3,420	11	1½	257,510
Leitrim	4,797	6	0	1,672	1	0	206,830
Limerick	20,067	4	0	6,178	10	7½	} 375,320
Limerick (city of) ..	1,382	16	11½	916	4	0	
Londonderry	10,282	18	11	9,518	0	6	215,510
Longford	4,764	15	8½	2,035	10	9	134,700
Louth	No Return.			Do.			111,180
Mayo	12,535	15	7½	2,896	9	1	724,640
Meath	16,648	16	3	7,941	18	0	326,480
Queen's County ...	7,913	19	6	3,894	11	8½	238,415
Roscommon	8,853	1	8	3,294	4	11	324,370
Tipperary	27,541	13	10½	9,331	0	5	599,500
Tyrone	11,396	17	8½	11,111	4	9½	387,175
Waterford	6,845	3	3½	7,490	5	4½	} 259,010
Waterford (city of) ..	2,090	11	1½	1,865	9	1	
Westmeath	7,552	12	11	4,022	19	11½	249,943
Wexford	10,223	5	3	3,317	14	11½	315,396
Wicklow	7,111	18	8½	1,840	11	7	252,410
£	933,637	19	8½	176,721	2	11½	11,042,642

*Carry forward -**Salary tax**Meath**Sligo*

This Table is taken from the Commons Papers (May, 1808); it is not complete. The counties of Louth, Sligo,

and Monaghan, are omitted; these being inserted at the general average, afford the following results:—

Spring levy	-	-	-	-	339,637	19	8½
Summer levy	-	-	-	-	186,721	2	11½
					£516,359	2	11½
Louth	}	-	-	-	25,596	8	0
Monaghan							
Sligo							
					£541,955	10	8½

At the period to which these tables extend, the county of Limerick paid £26,245 14s. 7d.; its taxation has since augmented to £32,149 0s. 8d. If the levies throughout Ireland have augmented in the same ratio they amount in 1814 to £811,755.

In 1807, the levies upon the county of Cork did not exceed £36,391; in 1814, they reached £77,481 0s. 2½d. Assuming these sums as the basis of a proportion, the amount of the taxation of Ireland, by grand jury assessments, may be taken at £1,133,292.

TABLE II.

Levies made by the Grand Jurors of the County of York.

Years.	Spring Levy.	Summer Levy.	Total.	Average of 4 Years.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.
1807	26,269 2 6	10,102 2 3	36,391 4 9	
1808	19,967 8 0	19,967 10 6	39,934 19 3	47,978 18 10
1809	26,386 6 6	22,853 16 5	48,740 2 10	
1810	32,954 3 8	33,894 16 11	66,849 0 7	
1811	28,041 17 2	31,892 13 0	59,434 19 2	
1812	28,817 4 7	30,170 15 11	68,984 9 6	
1813	36,716 16 3	39,385 1 6	76,100 17 9	70,502 12 2
1814	41,726 1 11	36,752 18 3 $\frac{1}{4}$	79,481 0 2 $\frac{1}{2}$	
Total.			478,925 16 0 $\frac{1}{2}$	

TABLE III.

Levies made on the County of Limerick.

From 1790 to 1814, inclusive.

Years.	Spring Assizes.			Summer Assizes.			Total.			Average of 4 Years.
	£.	s.	d.	£.	s.	d.	£.	s.	d.	
1790	5,926	16	11	1,485	7	3	7,412	4	2	6,787
1791	4,985	10	7	1,234	9	8	6,220	0	3	
1792	5,336	10	6	1,544	0	5	6,880	19	11	
1793	4,655	5	5	1,978	13	7	6,633	19	0	
1794	6,092	0	7	1,032	13	9	7,124	14	4	8,498
1795	6,423	0	0	2,395	4	1	8,818	4	1	
1796	9,692	19	2	2,758	0	1	12,453	19	7	
1797	3,124	7	3	2,475	18	3	5,600	5	6	
1798	7,071	2	4	2,451	12	4	9,522	14	8	11,463
1799	6,269	13	9	2,758	4	7	9,027	18	4	
1800	8,947	14	7	3,974	0	4	12,921	14	11	
1801	10,983	17	9	8,396	4	3	14,380	2	0	
1802	13,686	10	5	3,970	15	2	17,657	5	7	16,640
1803	8,256	16	0	3,386	18	6	11,643	14	6	
1804	10,102	3	7	5,710	1	6	15,812	5	1	
1805	16,675	11	9	4,772	2	0	21,447	13	9	
1806	15,077	4	11	6,556	19	3	21,574	4	2	20,981
1807	20,067	4	0	6,178	10	7	26,245	14	7	
1808	21,749	16	5	8,006	5	10	29,756	2	3	
1809	22,253	6	10	8,096	9	9	30,349	16	7	
1810	19,766	11	3	6,573	15	10	26,340	7	1	34,860
1811	25,140	19	7	10,360	10	4	35,501	9	11	
1812	28,985	5	5	9,117	1	0	38,102	6	5	
1813	26,460	1	5	13,035	1	0	39,495	2	5	
1814	21,450	14	4	10,698	6	4	32,149	0	8	
£	329,121	13	9	128,947	6	0	458,068	19	9	

This Table comprehends all the sums levied by the grand juries for roads, bridges, salaries, charities, &c. &c. It is compiled from the records in the office of the treasurer of the County of Limerick.

TABLE IV.
COUNTY OF LIMERICK.

	Presentments demanded. Spring, 1813.			Presentments demanded. Spring, 1814.			Presentments granted. Spring, 1814.			Presentments demanded. Summer, 1814.			Presentments granted. Summer, 1814.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.
County at large	10,674	8	3	10,296	14	7½	7,894	18	7½	10,947	3	1	7,373	17	4
Upper Connelloe	20,427	7	7	10,229	15	8	5,327	14	9½	1,864	16	0½	2,252	14	3½
Lower Connelloe	22,851	1	11	14,585	1	10	5,533	19	4	4,635	1	2	2,075	11	9
Costlea	6,166	4	7	5,479	18	11	2,909	14	11	764	1	10	1,623	5	5
Costuna	3,351	7	5½	1,771	15	6	1,425	9	8½	668	10	6	1,012	19	9½
Small County	4,111	4	0½	3,600	5	6	1,632	1	10½	336	3	8	873	17	4½
Clanwilliam	1,876	11	0½	1,599	17	5	1,203	4	0	268	16	7½	647	8	11
Coonagh	1,083	2	7½	2,423	18	2	990	16	5	146	14	6	528	3	2
Kenry	1,740	8	0	788	12	2½	681	12	7	203	9	3	437	15	1½
Pubble Brien	885	1	2	536	15	10	559	14	5	174	15	2	587	3	3
Owney Beg	853	13	4	644	12	2	979	10	3½	64	17	6	231	18	4½
Liberties of Kilmallock	167	12	7½	139	6	0	212	10	10½				83	1	3
Fines on Parishes							523	13	3				181	17	8
	73,687	17	7½	51,042	14	4	21,450	14	4	20,064	9	4	10,698	6	4

20.664.9 4
71.107.5:0

TABLE IV. *Continued.*

COUNTY OF KERRY

	Presentments demanded. Spring, 1814.		Presentments granted. Spring, 1814.		Presentments demanded. Summer, 1814.		Presentments granted. Summer, 1814.	
	£.	s. d.	£.	s. d.	£.	s. d.	£.	s. d.
County at Large	9,279	4 8½	4,597	17 6½	8,108	9 3	3,155	17 8
Trughaemy	5,063	13 3	2,208	3 5	2,416	18 11	1,925	6 6
Magirietry	2,365	14 4	1,175	16 5½	810	19 5	558	0 10
Corkaganny	2,110	1 8	1,266	12 5½	1,263	19 2½	745	7 5
Clannaurce	2,968	7 5½	1,400	15 10	2,474	1 7	498	12 1
Ireghuonnor	2,112	12 6	1,062	8 7	996	13	423	3 7
Dunkerron	547	16 6	498	11 5	633	3 9	0	0 0
Glancrough	848	18 2½	317	3 5	584	7 3	319	18 3
Iveragh	982	13 3	647	3 0	452	15 1	241	16 8
	26,270	0 4½	13,062	5 1	17,743	0 6	6,968	2 4

This Table exhibits the weight and importance of the grand jury duties; the extent of the sums demanded; and the extreme necessity which exists of reasonable time, and correct information, in order to decide upon the levies which ought to be ordered. It is compiled from the grand jury records.

TABLE V.
Statistical Table relating to the County of Limerick.

Names of Baronies.	Contents in Reduced Acres.	Actual Contents.	Number of Families.	Agricultural Towns.	Villages.	Inhabitants of Towns, &c.	Total of Inhabitants	Parishes.	Individuals to each Family.
Upper Connelloe	53,264	94,745	No Return.	Do.	Do.	Do.	Do.	Do.	Do.
Lower Connelloe	43,568	81,160	6,659	7	4	7,137	38,647	20	Decimars.
Costlea	29,672	58,295	4,932	1	3	2,243	28,340	13	5,8098
Costuna	24,672	25,467	2,613	8	0	2,034	14,798	9	5,6631
Small County	22,737	22,705	1,450	0	3	1,345	7,630	11	5,7262
Clanwilliam	17,825	27,440	2,404	1	2	1,908	14,521	17	5,9516
Coonagh	16,575	22,385	1,946	0	6	790	11,644	6	6,0403
Keary	12,384	16,053	2,129	1	2	774	12,561	5	5,9835
Pubble Brien	12,245	15,583	1,329	0	0	0	7,386	5	5,899
Owney Beg	5,555	16,649	1,697	0	2	487	5,919	3	5,4446
Liberties of Kilmallock	2,028	2,489	357	0	1	378	1,572	1	6,4328
Total.									4,0403

The contents, in reduced acres, is taken from the survey by which the county taxation is regulated. The actual contents, from the survey of Mr. Neville Bath, taken 1790. The number of inhabitants, &c. from the returns made by the high constables, under the Population Act. These returns are, it is true, inaccurate and careless; but they afford an approximation to the truth.

TABLE VI.

County Name.	Barony.	Year.	Levy.	Acreable Tax.		
				£.	s.	d.
Carlow	Carlow	1807	Spring.	1	4	$\frac{1}{2}$
	Forth	do.	do.	2	9	$\frac{1}{2}$
	Idrome East	do.	do.	2	1	
	Idrome West	do.	do.	2	3	$\frac{1}{2}$
	Rathvilly	do.	do.	1	2	$\frac{3}{4}$
Meath	St. Mollens	do.	do.	2	9	$\frac{1}{2}$
	Lower Duleck	do.	do.	1	3	$\frac{1}{2}$
	Upper Deece	do.	do.		10	$\frac{1}{2}$
	Lower Kills	do.	do.	1	9	$\frac{1}{2}$
	Moyfenragh	do.	do.		7	$\frac{3}{4}$
Limerick	U. Connelloe	1814	Spring and Summer.	2	10	$\frac{1}{2}$
	L. Connelloe	do.	do.	3	8	
	Costlea	do.	do.	3	0	$\frac{1}{2}$
	Costuna	do.	do.	2	0	
	Small County	do.	do.	2	0	$\frac{1}{2}$
	Clanwilliam	do.	do.	2	1	
	Coonagh	do.	do.	1	10	$\frac{1}{2}$
	Kenry	do.	do.	1	9	
	Owneybeg	do.	do.	2	2	
	Pubble Brien	do.	do.	2	0	
	Kilmallock	do.	do.			
Roscommon	Boyle	1807	Spring.	1	0	
	Roscommon	do.	do.	1	0	$\frac{1}{2}$
	Moycarnon, Parish	do.			6	
Tipperary	Lifronagh	do.	do.	2	0	$\frac{1}{2}$
	Owney and Arra	do.	do.	2	11	
	Donohill	do.	do.		1	
	Tipperary	do.	do.		1	$\frac{1}{2}$
	Cordangan	do.	do.		11	$\frac{3}{4}$

This Table is intended to exhibit the great inequalities of the local taxation of Ireland; it is prepared from the House of Commons papers, printed May and July, 1808; and from the county records of Limerick.

THE END.

J. F. Dove, Printer, St. John's Square.



